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# **COPY RIGHT LAW IN PRACTICE: DEFINITION, EVOLUTION, RIGHTS AND REGULATORY FRAMEWORK**

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## INTRODUCTION

Copyright is a legal framework that protects the rights of creators by granting them exclusive control over their original works. It applies to various forms of creative expression, including literature, music, films, artworks, and digital content. The primary purpose of copyright is to encourage creativity and innovation by ensuring that creators can benefit from their work while preventing unauthorized use or reproduction. This paper explores the importance of copyright, the types of works it protects, its duration, and the exceptions under fair use. It also examines the consequences of copyright infringement and the role of copyright in balancing the rights of creators and the public. Understanding copyright is essential in today's digital age, where content is easily shared and reproduced.

## **COPYRIGHT**

Copyright is a legal right that protects original works of authorship once they are fixed in a tangible form. It's a type of intellectual property that grants creators a bundle of rights, including the right to reproduce, adapt, translate, and communicate their work to the public. books, poems, musical compositions, sound recordings, computer programs, movies, architectural works, plays, photographs, and illustrations. In other words, copyright is the right to copy. Only the creator of the work can authorize anyone to reproduce the work. Work must be available in physical form for it to be protected by copyright. Copyright does not protect ideas, discoveries, concepts, or theories although other forms of protection such as patents and trademarks exist for those products. Brand names, logos, slogans, domain names, and titles cannot be protected under copyright law.

## **Definition of the Copyright**

Copy right derived from the expression “copy of words” first used in the context, according to oxford dictionary in1586.<sup>1</sup>

Oxford dictionary defines copy right as “the exclusive right given by law for certain terms of years to an author, composer etc. to print publish and sell copies of original work”

## **History of copyright**

Starts with early privileges and monopolies granted to printers of books. The British Statute of Anne 1710, full title "An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned", was the first copyright statute. Initially copyright law only applied to the copying of books. Prior to the statute's enactment in 1710, copying restrictions were authorized by the Licensing of the Press Act 1662. These restrictions were enforced by the Stationers' Company, a guild of printers given the exclusive power to print—and the responsibility to censor—literary works. The statute then continued by stating the nature of copyright. The right granted was the right to copy; to have sole control over the printing and reprinting of books, with no provision to benefit the owner of this right after the sale. This right, previously held by the Stationers' Company's members, would automatically be given to the author as soon as it was published, although they had the ability to license these rights to another person. The copyright could be gained through two stages: first, the registration of the book's publication with the company, to prevent unintentional infringement, and second, the deposit of copies of the book at the Stationers' Company, the royal library and various universities. Under the law of the United Kingdom, a copyright is an intangible property right subsisting in certain qualifying subject matter. Copyright law is governed by the Copyright, Designs and Patents Act 1988 (the 1988 Act), as amended from time to time.<sup>2</sup>

### **United States**

United States copyright law traces its lineage back to the British Statute of Anne, which influenced the first U.S. federal copyright law, the Copyright Act of 1790. The length of copyright established by the Founding Fathers was 14 years, plus the ability to renew it one time, for 14 more. 40 years later, the initial term was changed to 28 years. It was not until a full 180 years after its establishment that it was significantly extended beyond that, through the Copyright Act of 1976 to "Either 75 years

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<sup>1</sup> Will Kenton, ‘‘ Copyright: Definition, Types, and How It Works’’,available at :  
[https://www.investopedia.com/terms/c/copyright.asp\(last](https://www.investopedia.com/terms/c/copyright.asp(last)

<sup>2</sup> The Statute of Anne: The First Copyright Statute,available at :  
[https://www.historyofinformation.com/detail.php?entryid=3389\(last](https://www.historyofinformation.com/detail.php?entryid=3389(last) visited February 24,2025)

(also called the "Mickey Mouse Protection Act")<sup>3</sup>, because it prevented the copyright from expiring on the first commercial success of the Disney cartoon character Mickey Mouse), which increased it even more, to 95 years after publication (120 years after creation for unpublished works), or the life of the author plus 70 years, whichever ends earlier.

### **Idea-Expression Dichotomy**

The legal doctrine of idea-expression dichotomy is one of the most time-tested doctrines of copyright law, not only in India but in all jurisdictions. It mainly echoes the basic principle of what exactly can be accorded with protection under copyright laws. There exists no copyright in ideas. It is only when the idea is expressed in a protectable form, it can be granted a copyright. Therefore, it is not the idea but the expression which is protected. An idea is the formulation of thought on a particular subject whereas an expression constitutes the implementation of the said idea. So basically, even if a number of people comes up with a similar idea, protection shall only be given the one which has implemented the idea in some form of expression. Such expression must be a explicit, particular preparation of words, designs or other forms. Thus, such this doctrine is utilized to protect multiple forms of the same idea. The idea-expression dichotomy for the first time evolved in the case of *Baker v. Selden*<sup>4</sup> decided by the US Supreme Court. The plaintiff was the owner of copyright in a series of books explaining accounting system along with certain forms consisting of ruled lines and headings etc. illustrating the accounting system. The plaintiff alleged that the defendant by writing and selling account books which has arranged accounting system similar to his own, has infringed his copyright on the said system, even though the forms were employed with different columns and headings. The US Supreme court took the decision in favor of the defendants and held that there was a clear distinction between the books and the art which they planned to demonstrate the accounting system. The portrayal of the art in a book, i.e. the expression, although copyrightable, did not permit the plaintiff exclusive claim to the art, i.e. the idea in this case. The U.S. Supreme Court created a clear distinction between an idea and its expression, the main reason that otherwise it would result in providing an undue possibility of monopoly to the copyright owner and would amount to anti-competitive exercise of such rights.

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<sup>3</sup> Jennifer Jenkins, "Mickey, Disney, and the Public Domain: a 95-year Love Triangle", available at: <https://web.law.duke.edu/cspd/mickey/#:~:text=On%20the%20one%20hand%2C%20Disney,to%20digitize%2C%20archive%2C%20and%20gain> (Last visited February 24, 2025)

<sup>4</sup> Anuttama Ghose, "The Principle of Idea-Expression Dichotomy in Copyright Laws: Legal Scenario in India Compared to the Laws of U.S.A and United Kingdom" *7 Journal of Emerging Technologies and Innovative Research* 595(2020)

At the international scenario also, the TRIPS convention under Article 9(2) states that the ideas alone cannot be copyrighted. This law has been acknowledged by almost every country through their national laws.

The US Copyright Act defines idea/expression dichotomy in the following words: “In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.”

#### The Law in United Kingdom:

The principle has been well stated in the case of *Ibcos Computers Ltd v Barclays Finance Ltd*<sup>5</sup>. The Court stated that an original work representing a sufficient general principle, then the mere taking of that idea would not violate the copyright laws. The UK law has taken the stand as in the above case that a general principle cannot be protected but it can protect a comprehensive literary or creative expression. The justification behind this that the Courts might have adopted that a general principle is available at the common platform and available to all, hence, cannot be protected. Anyone can utilize the resources which is available in the public sphere but when somebody uses it adds on to it with the help of a detailed expression, then it is subject to copyright protection. Thus, to summarize the idea-expression dichotomy in the United Kingdom Copyright system, it can be inferred that where certain ideas articulated by a copyright work are not unique, they are not entitled to copyright protection as the borrowing of such idea shall not constitute the extraction of a substantial part of the work. Moreover, the skill, labor and judgment utilized must be related to the cause. A mere deliberation of an idea like the objective supposed to be achieved by the computer program, is not included within the ambit of appropriating skill, labour and judgment essential to amount to infringement.

#### Indian Aspect

The law regarding copyrights in India has been comprehensively stated under the Copyrights Act, 1957. The Copyright Act does not define neither an idea nor expression and is also silent on the difference in the action of the two. From the judicial perspective as well, there has not been much development in the principle of idea expression dichotomy due to very a smaller number of case laws.

Indian law on copyright does not specifically mention the idea-expression dichotomy. But the rule got properly established in the Supreme Court's landmark judgment of *R. G. Anand v. M/S Deluxe Films & Ors* (1978). However, this is the only Supreme Court case on this matter of idea- expression

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<sup>5</sup> Id at 598

dichotomy. The appellant-plaintiff in this case, R.G. Anand was an Indian playwright who had written and produced the play 'Hum Hindustani' . In 1956 a motion picture called 'New Delhi' was released which the appellant found to be completely based on his play. But the appellant had not been accorded with any credit in the movie. Accordingly, he filed a suit for damages.

The Court first contrasted the play with the film in general terms, concluding that the film's topic was larger in scope, encompassing both 'provincialism' and 'dowry'. In determining that infringement was not proved, the Court concluded that copyright cannot be obtained over a concept ('provincialism' in this case) and that the differences between the two works were significant enough to find that there was no copying of his play's script.

The lay observer's test was established in the R.G. Anand Case (1978) and is generally used by courts to distinguish between ideas and expression in any given case. As the name suggests, this test is performed by making an average layman of reasonable intellect peruse the contended works of the plaintiffs and defendants. Their opinion on the similarity or dissimilarity of the works is then taken into consideration while deciding a case.

#### Extraction test

This is a nascent test that came about in the case of Shamoil Ahmad Khan v. Falguni Shah & Ors. (2020) In this case, the Bombay High Court observed that a seed of an idea grows into a theme, then into a narrative, and finally into a whole novel with the support of characters and surroundings. It was the amalgamation of all the works that gave the abstract idea its true substance. If the final work is gradually stripped of all the ancillary elements, then the unprotectable idea or abstract can be extracted. The High Court then used this principle in the facts of the case

In the recent scenarios, judgment reporting was added as another facet to idea expression dichotomy when in 2008, where the Supreme Court came up with the decision of Eastern Book Company and Ors. v. D.B. Modak<sup>15</sup> . The court declared that the Copyright is less concerned with the originality of ideas, rather more with the expression of such thought. On the issue of whether "copy-edited" judgments were entitled to copyright protection, it was decided that the judgments of a Court which are in the public domain and no copyright can be claimed on the same.

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<sup>6</sup> Parmardhawal, "Case Comment On Topic Of RG Anand v/s Deluxe Films",available at: <https://www.legalserviceindia.com/legal/article-9386-case-comment-on-topic-of-rg-anand-v-s-deluxe-films.html> (Last visited February 26,2025)

## Exceptions

### I. The Doctrine of Merger

The fundamental rule of Copyright law is that facts and ideas are not copyrightable, it is only the creative and unique method of expressing such ideas and facts that is rewarded by law, by conferring a right to exclusively make use of such expression for a given period of time. However, in certain situations where the idea and expression are indivisible or merged, the courts apply Doctrine of Merger. This doctrine suggests that where the idea and expression are inherently linked, and that the expression is indistinguishable from the idea, copyright cannot be granted. The doctrine of merger states that there is only one way to express certain the idea, as a result of which idea and expression often become indistinguishable, in such scenarios the expression becomes non-copyrightable.<sup>7</sup>

### II. The doctrine of Scenes a Faire:

The next concept that we shall discuss under exceptions to the rule of idea-expression dichotomy is Scenes a faire. "Scenes a faire" is a term that refers to characters, places, story elements, language, etc., which are standard to some general theme or topic, and are often an indispensable part of that theme or topic. Such scenes a faire is not capable of being protected by copyright laws. For example, a science fiction story may have robots, high-tech gadgets, spaceships, a hero fighting against a dictatorial leader, etc. These are all scenes a faire and not protectable by copyright laws. However, the application and expression of these elements in any given story would be protectable depending on the situation.<sup>8</sup>

## **HISTORY OF COPYRIGHT IN INDIA**

The first Indian specific statute applicable in India was "The Indian Copyright, Act, 1847". There after "The Imperial Copyright Act, 1911" was passed by British legislature in England and extended throughout the British domains. Then "The Indian Copyright Act, 1914".The infringement of copyright law as not considered as a criminal offence under the Act. It authorized the owner of copyright to destroy the infringing copies.<sup>9</sup>

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<sup>7</sup> Supra note 4

<sup>8</sup> Ibid

<sup>9</sup> Suvrashis Sarkar, "History and Evolution of Copyright in India"<sup>5</sup> PARIPEX - INDIAN JOURNAL OF RESEARCH Page 9078  
275(2016)

The Imperial Copyright Act, 1911 was a law in force in the territory of India immediately before the commencement of the constitution and is continued in force by virtue of Article 372(1) of the constitution. Thus, even after independence, the pre-independence legislation drafted by the British legislature continues to operate and it ceased only after the Copyright Act, 1957 was drafted which came into operation on January 21, 1958.<sup>10</sup>

The Copyright Act, 1957 is in conformity with the following international conventions

- i. Berne Convention, 1886 and,
- ii. Universal Copyright Convention, 1952

## **ASSIGNMENT OF COPYRIGHT**

The owner of a copyright in a work may assign copyright either wholly or partially for the whole or any part of such copyright to any person. Copyright may also be assigned by a prospective owner of the copyright in a future work, subject however to the condition that the assignment shall be effective only when the work comes in existence.

In Uk the following forms of assignments are found

### Automatic assignment

There are some circumstances where ownership of copyright is transferred automatically without any intervention by the first owner or the new owner. Examples of this include inheritance, and insolvency. Since in most cases copyright lasts for seventy years after the end of the calendar year in which the author died, it is common for copyright to be assigned in this way at least once or twice before its expiry. Therefore, it is often necessary to trace the heirs of an author when seeking permission to use a copyright work. If a person dies without any heirs, or a company is dissolved and its assets are not collected and disposed of, property in both these circumstances becomes bona vacantia (literally vacant possession)<sup>11</sup> and reverts to the Crown. This means the Crown becomes the owner of any copyright, but it does not mean the copyright becomes Crown copyright. It is possible to buy unowned copyright which has been acquired by the Crown as bona vacantia, and this too would represent an assignment of copyright<sup>12</sup>.

### Elective assignment

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<sup>10</sup> Ibid

<sup>11</sup> Copyright notice: assignment of copyright, available at: <https://www.gov.uk/government/publications/copyright-notice-assignment-of-copyright> (Last visited February 26, 2025)

<sup>12</sup> Ibid

This can happen at any time before or after the copyright work is created. To be a valid assignment, it must be made in writing and signed by or on behalf of the assignor

### Partial assignment

You can assign either the whole or part of your copyright. For example, you could assign the right to copy the work to one publisher and assign the right to make translations of the work to another publisher so as to sell the work in foreign markets. A partial assignment may also be limited in duration

### Assignment by reversion

Some assignment contracts can provide for the copyright to revert to the assignor if certain criteria are met, such as breach of contract or the assignee going out of business. When copyright reverts in this way, this is also deemed to be an assignment.

### Indian Scenario

Section 18 of the Copyright Act discusses “assignment of copyright.” The owner of the copyright in an existing work or the prospective owner of future work has the right to assign to any person the copyright of that work. Since copyright per se is a bundle of rights, assignment of copyright could be.

1. Whole or partial,
2. Subject to certain conditions/limitations,
3. For the whole term of the copyright or any part thereof.

If the work is not yet in existence at the time of assignment (future work), the assignment shall take effect only when the work comes into existence

Mode of assignment is discussed under sec 19

An assignment agreement shall have the following essentials:

1. It shall be made in writing and identify the work assigned.
2. It shall specify the scope of rights assigned and consideration.
3. It shall mention the duration and territorial extent of such assignment.

. Furthermore, in case where the duration of the assignment is not mentioned, as per law, it is deemed to be five years from the date of the assignment and in the case where the territorial extent of such assignment is not mentioned, as per law, it is presumed to extend within India

rights of distribution, exhibition and exploitation of the picture Mazboor within the territories of Uttar Pradesh and Delhi from defendant no 2 who acquired the same rights from the producer of the film, M/s Suchitra Film Pvt Ltd. The plaintiff filed a suit to restrain Doordarshan, Zee TV, Cable TV and Pay TV from telecasting the film. The question was whether exclusive distribution, exhibition and exploitation rights for the territories of Delhi and Uttar Pradesh would cover the telecast right as well. According to plaintiff, based on trade practice and the resolution of the Motion Pictures Association, these rights were also included in the contract. The defendants argued that the intention was only to transfer the theatrical rights and not any other rights and this was evident from the territorial limits that had been indicated in the contract. The court held that it was true that in the agreement it had not specifically been mentioned that the rights exclude the cable television or any other satellite rights, but the intention of the parties could be inferred from the nature of the transaction that had been arrived at. The scope of contract was limited by geographical limitations. If the film was shown on Doordarshan, there would be no geographical limitations as such. Therefore, once the plaintiff had entered into an agreement with geographical limitations it was obvious that it was confined only to theatrical rights in Delhi and Uttar Pradesh and did not cover telecast rights."

### **Mrs. M. Padmini vs Raj Television Network Limited (2015)<sup>3</sup>**

This case dealt with the question of assignment of future rights. The brief facts were that the copyrights in the negatives (negative rights) of a Tamil feature film were assigned by the producer of the film to one Kumar Pictures in 1981, and subsequently, the Defendant got the assignment from the said Kumar Pictures by way of assignment deed dated 15.05.2000. In about July 2013, the Plaintiffs, who were the legal heirs of the producer/assignor (who had passed away in 2004), became aware that the Defendant is attempting to release the said film as a digital cinema.

Aggrieved by this, the Plaintiffs filed the present suit contending that the technology of digital cinematography came into vogue only from 1990 onwards and that since such a technology was not even in existence when the assignment took place (in 1981), the Defendant cannot release the film as a digital cinema without specific assignment of the digital cinematography right from the author or from his legal heirs.

The Court after careful consideration of the facts and provisions held in favor of the Defendant by noting that Section 18 uses the term 'owner' and not 'first owner'. If all the rights accruing due to advancement in scientific technology were to be conferred only on the producer of the film, then Section 18 would have to read as 'first owner' and not just 'owner'.

The Court noted that since the entire copyright was assigned in favor of the assignee, if any right accrues in future due to advancement of science and technology, it will devolve only upon the owner and not on the first owner

## **RIGHTS UNDER INTELLECTUAL PROPERTY**

### **Economic Rights**

Economic rights are given to the owner of the work. The author decides how the property will be used or how others can use it with permissions, the license is granted to them by the owner himself. They can authorize or prohibit 3rd parties from using their work or for commercialization. Economic rights are the exclusive rights given to the owner of a work protected by copyright to manage its financial exploitation. The copyright owner can make money through these rights through their creative work.

The phrase “economic rights” emphasizes copyright ownership’s commercial and financial aspects. Economic rights are listed in section 14 of the Indian Copyright Act of 1957.

#### **Right to Reproduce the Work**

In terms of copyright, the exclusive right of the copyright holder to create copies or reproductions of their work is referred to as the right to reproduce. These covers adapting the work to multiple media, such as printing books or producing digital versions. Regulating how one’s work is reproduced or replicated is a vital benefit of the freedom to reproduce. The terms ‘reproduction’ and ‘copying’ have been used simultaneously though reproduction encompasses a wider range of acts. It must also be noted that to constitute reproduction, copying need not be in toto; even substantial reproduction will amount to reproduction. Reproduction also means making a copy in a different form, even if such copy is not easily perceptible. Under the Act, the right to reproduction of literary work also includes storing it in electronic form.<sup>13</sup>

#### **The Right of Distribution**

An owner of copyright enjoys an exclusive right over the initial distribution of copies of his work. This right flows logically from the right of reproduction. Naturally, reproduction right would be of little value if the owner could not authorize the distribution of copies of his work made by him or his consent. Like the right of reproduction, the right of distribution is available to all the works that are

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<sup>13</sup> Arathi Ashok, “Economic Rights of Authors under Copyright Law”<sup>15</sup> Journal of Intellectual Property Page | 9082

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subject to copyright protection After the first sale of a particular copy this right is normally said to have been 'exhausted'.

### Rental Right

The right of rental stems out of the right of distribution. 'Rental' means making available for use for a limited period of time and for direct or indirect economic or commercial advantage. Historically rental rights were not part of the bundle of rights within copyright. Lately, this right has been made available to only three classes of works, viz. computer programmes, sound recordings and cinematograph films. Under a rental right, the copyright owner may collect royalties from third parties engaged in the commercial rental of his copyrighted works.<sup>14</sup> Thus, after a book has been purchased at a bookstore, the copyright owner has no say over how that copy of book is further distributed. Thus, the book could be rented without the permission of the copyright holder. The same would not be the case for computer programmes, films and sound recordings.

### The Right of Public Performance

The exclusive right to authorize the public performance of a work is of very basic importance to the copyright owner. The right of public performance is available for literary, dramatic and musical works but it is of seminal importance for dramatic, dramatic-musical or musical works which are created primarily for such performance. The right of public performance entitles the owner to authorize live performances of a work such as a play, a dance or an orchestra performance. The mere fact that the public does not have free access to the venue of the performance is not sufficient to characterize it as a private performance. For example, the case of a hotel, or a hostel making a performance available through video to its guests or inmates, even in the privacy of their rooms, would not be treated as a private performance.

### Right to Communicate the Work to Public

The right to communicate the work to public is available for all the categories of protected works. 'Communication to the public' means making any work or performance available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing copies of such work.<sup>15</sup> It is not necessary that any member of the public actually sees, hears or otherwise enjoys the work so made available. This right extends to rebroadcasting and communication of the broadcast to the public by other means like loudspeakers and webcasts. It is not necessary that any member of the public actually sees, hears or otherwise enjoys the work so made available.<sup>2</sup> For example, a cable operator may transmit a cinematograph film, which no member of the public may see; still, it is a communication to the public

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<sup>14</sup> Ibid

<sup>15</sup> Id

The right of adaptation is available for literary, dramatic, musical and artistic works. As per Copyright Act 'adaptation' means: (i) in relation to a dramatic work, the conversion of the work into a non-dramatic work; (ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise; (iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; (iv) in relation to a musical work, any arrangement or transcription of the work; and (v) in relation to any work, any use of such work involving its re-arrangement or alteration.<sup>16</sup> Adaptation involves the preparation of a new work in the same or different form based upon an already existing work

### Moral Rights

Moral rights specifically pertain to the personal rights of an author concerning the integrity of his works, aiming to prevent any revisions or alterations irrespective of ownership. They help to avoid modification or alteration of the content. Moral rights reserve the integrity of the Author's work.<sup>17</sup>

Article 6b of the Berne Convention provides the legal framework for expressing moral rights. Moral rights safeguard personal and reputational interests, granting authors the ability to protect the integrity of their works and the use of their names. In jurisdictions that recognize moral rights, authors have the means to address any distortion, misrepresentation, or interference with their works that could harm their reputation. Moral rights are often referred to as "inalienable" since they cannot be transferred, waived or relinquished.<sup>18</sup>

### United Kingdom

Works often mean more than just the economic value they can generate from their exploitation they can be very special to the person who creates them as they have invested a lot in the work, emotionally and/or intellectually. As a result, copyright works need to be protected in ways that are different to traditional forms of property. Moral rights protect those non-economic interests.

The Right of Attribution It is also called the Right of Paternity or Right to Authorship. This right establishes ownership over the work. Through this right, the public can know about the creator of the work. Right of Attribution states that a person must be named as the author of work if he has created

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<sup>16</sup> Ibid

<sup>17</sup> Lionel Bently and Brad Sherman, Intellectual Property Law, 235 (Oxford University Press, New York, 1<sup>st</sup> edn, 2001)

<sup>18</sup> Ibid at 237

the work. Plagiarism can be avoided through this right. The author's name must also appear in the reproduction or adaptation of the work. In some countries, the right of attribution must be exercised through assertion. The author must expressly assert that he is the owner of the work. Assertion can be done through a legal contract. An artwork published in an exhibition can be asserted by attaching the name to the frame of the artwork. The assertion of this right is done only once. The assertion of this right should not take too long. This right also allows the author to work under the name of a pseudonym.

**The Right to Integrity** The author of the work will not be subjected to derogatory treatment under this right. Derogatory treatment includes materially distorting the work, destroying the work, or altering the work. This right protects the integrity of both the author and the work. The work should not be altered in a way that the alteration harms the work. This right ensures that the reputation of the author is not destroyed. Negative reviews or comments about work can affect the integrity of the work. The Right to Integrity also has the same exceptions as the Right to Attribution. This right will come into play when there is an adaptation of work from one form to another

**The Right against False Attribution** This right mentions that a person should not falsely represent himself as the owner of a work. This right stops the person from being credited for work when, in fact, he is not the owner of the work.

### The United States

Moral rights are not fully protected in the U. S. Only works of visual arts are provided moral rights under the Visual Artists Rights Act (VARA) of 1990. The moral rights cannot be transferred or assigned but can be waived under a contract. The term protection of moral rights will persist till the lifetime of the author. VARA protects the right to integrity and the right to attribution of artists. Moral rights were added to this country when it joined the Berne Convention.

### Moral rights in India

Moral rights are recognized under Section 57 of the Copyright Act, 1957. The right of paternity, right of dissemination, right of integrity, and right to retraction are available under this section. Waiver of moral rights is permitted if it is against public policy. The duration of moral rights will be during the author's lifetime plus seventy years after his death. Earlier, moral rights were only limited to literary works, but the court in Mannu Bhandari v. Kala Vikas Pictures Pvt. Ltd and Ors held that moral rights should also be applied to visual and audio works. Moral rights also apply to computer programs.

The case of *Amar Nath Sehgal v. Union of India* is widely regarded as a landmark case concerning moral rights. In this case, the petitioner was appointed by the Ministry of Works, Housing, and Supplies to prepare a mural for India's first convention center Vigyan Bhavan. The mural attracted visitors from around the world. After some years, Vigyan Bhavan underwent a renovation, and the mural had to be pulled down. When the plaintiff came to know about this, he claimed damages from the government. The mural was damaged due to the negligent behavior of the government, so the plaintiff sued the government under section 57 of the Copyright Act, 1957. The court concluded that Section 57 should be interpreted broadly to encompass the destruction of an artwork, which represents the most extreme form of mutilation. The defendant had argued that the plaintiff had no position to claim damages as he had transferred his copyright and economic rights to them. They also had the right to destroy the work. The court held that even though the plaintiff had transferred copyrights to the defendant, he possessed special rights to claim damages

The act of destroying a work diminishes the author's creative body of work, consequently causing a detrimental impact on their reputation. Mutilation essentially denotes the destruction that renders the work imperfect. The Moral Right of Integrity encompasses the author's right to preserve the purity and integrity of his work. Lastly, the Right to Retraction grants creative artists the authority to withdraw their work from publication.<sup>19</sup>

In the *Raj Rewal case*, the moral rights of the author of the Hall of Nations (a building located in Pragati Maidan, Delhi) were called into question. The plaintiff was commissioned by the defendant, the ITPO (Indian trade promotion organization), in 1979 to construct the Hall of Nations as a symbol of cultural progress on the occasion of India's 25th Independence Day. The Hall of Nations was built using a space frame structure, not only for the roof but also for the surrounding walls, and it gained recognition as a site of cultural heritage. However, in 2017, the Hall of Nations was demolished to make way for another complex. The plaintiff made multiple appeals to the Government and filed various petitions but did not succeed. Consequently, the plaintiff approached the Delhi High Court seeking damages from the defendants, as the demolition of his work had a detrimental impact on his reputation.

The central issue in question was whether the plaintiff, despite the ITPO being the actual owner of the Hall of Nations, possessed any moral rights. It also examined whether moral rights posed a hindrance to the right to property, which is constitutionally protected under Article 300A of the Constitution of India. If so, the court needed to determine which right would take precedence. The court concluded that the Hall of Nations was indeed the property of the ITPO, and the plaintiff's

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<sup>19</sup> What Are Moral Rights Under Copyright Law, available at: <https://naiknaik.com/2023/12/04/what-are-moral-rights-under-copyright-law/> (Last visited March 3, 2025)

moral rights directly conflicted with the defendant's constitutional right to property. The plaintiff did possess moral rights as the author of the work, which are granted based on authorship. However, it was emphasized that the Copyright Act or any legislation could not supersede the Constitution of India, as it serves as the supreme source of all laws in the country. Therefore, moral rights could not impede the defendant's constitutional right to property.

## **PERFORMERS RIGHT AND NEIGHBORING RIGHTS**

Earlier performers' rights were not recognised under copyright law. Performance of an actor in a cinematograph film or performance of a singer in a sound recording were not legally protected. Hence permission of a performer was not required to use the sound recording or dramatic work. But in the year 1994, performer rights were recognised under the Copyright Act 1957 in India. However, until the Rome Convention, 1961, the performers rights were not recognized internationally. But the Rome Convention gave protection against broadcast of any performance without the consent of the performer. It gave recognition to performers rights and stated that the performer is an artist and without his consent work cannot be broadcasted. Section 38, 39 and 39A of Copyright Act deals with the provisions related to the performer rights.

## **DIFFERENT STATUTORY AGENCIES UNDER THE COPYRIGHT ACT AND THEIR ROLES**

### Copyright Office

Section 9 of the Copyright Act requires for establishment of an office to be called the Copyright Office for the purpose of the Act. Copyright Office is to be under the immediate control of a Registrar of Copyrights to be appointed by the Central Government, who would act under the superintendence and directions of the Central Government. Responsible for registering copyrights and managing administrative tasks related to copyright applications.

Under section 10, The Central Government shall appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights

### Copyright Board

The Copyright Board, a quasi-judicial body, was constituted in September 1958. The jurisdiction of the Copyright Board extends to the whole of India. The copyright board is a body constituted by the central govt. to discharge certain judicial function under the Act. The Board is entrusted with the task of adjudication of disputes pertaining to copyright registration, assignment of copyright, grant of Licenses in respect of works withheld from public, unpublished Indian works, production and publication of translations and works for certain specified purposes. It also hears cases in other miscellaneous matters instituted before it under the Copyright Act, 1957

It consists of a chairman and not more than fourteen other members. [2] The Chairman and the members shall hold their office for five years. They may be reappointed on the expiry of the tenure. [3] The chairman of the copyright board must be a person who is or has been judge of a High Court or is qualified for appointment as a judge of a High Court. [4] There is no qualification mentioned about the members of the Board.

The Registrar of Copyright and the Copyright Board have the powers of a civil court in respect of the following matters: [9]

- (a) Summoning & enforcing the attendance of any person and examining him on oath (this jurisdiction extends to the whole of India); [10]
- (b) Requiring the discovery and production of any document.
- (c) Receiving evidence on affidavit.
- (d) Issuing commission for the examination of witnesses and document.
- (e) Requisitioning any public record or copy thereof from any court or office.
- (f) Any other matter which may be prescribed.

#### Functions of Copyright Board

The first and foremost function of the copyright board is to look after whether the provisions of the Act are followed without any violation or infringement and to adjudicate certain cases pertaining to copyrights. Other than this, the copyright board has been provided direct jurisdiction in relation to matters:

- (1) To decide the issue of publication and its date in order to determine the term of copyright.
- (2) To decide the term of copyright which shorter in any other country than that provided in respect of that work under the Act (The decision of the Copyright board on the above question will be final)
- (3) To settle disputes related to assignment of copyright
- (4) To grant compulsory licenses for Indian work, to publish the unpublished work ,to produce and publish translation of literary and dramatic works , to reproduce and publish certain categories of literary, scientific or artistic works for certain purposes.
- (5) To rectify the Register of copyrights on the application of registrar of copyrights or any aggrieved persons

#### Copyright societies

Copyright Society is referred to as a legal body that protects or safeguards the interest of owners of the work in which copyright subsists. The Copyright Society gives assurance to the creative authors for the commercial management of their works.

Copyright societies are collectively formed by a group of authors and other owners of such copyrighted works in order to manage and protect the authors or owners against copyright infringement because it is difficult for authors as well as owners of the copyright to keep track of the use of their copyrighted work.

'Copyright Society' means a society registered under Section 33 (3) of the Copyright Act, 1956 which provides that the copyright society duly registered under the act can only conduct the business of issuing/granting licenses to the copyrighted work i.e., literary, dramatic, musical, or artistic works incorporated in cinematograph films or sound recordings.

#### Functions of copyright societies

The copyright Societies discharge the following functions:

1. It grants license of the Copyright in the work for reproduction, performance, or communication to the public.
2. It locates the infringement of the Copyright and initiates legal proceedings.

## **COPYRIGHT INFRINGEMENT**

Copyright infringement is the unauthorized use of copyrighted material, such as a work of art, music, or film. It's a violation of the copyright holder's exclusive rights and can result in legal consequences. As per the Copyright Act, 1957, the use of a copyrighted work without the permission of the owner results in copyright infringement. Infringement occurs when a third person unintentionally or intentionally uses/copies the work of another without giving credit. It is usually classified into two categories, i.e. primary and secondary infringement.<sup>20</sup>

### **Naruto and PETA v. Slater (aka "the monkey selfie")**

While taking pictures in an Indonesian wildlife reserve, David Slater set down the camera long enough for a macaque monkey named Naruto to grab the camera and take a selfie. Slater published the photos, which spread widely. Animal-rights group PETA sued Slater, saying he had violated the monkey's copyright ownership; after all, whoever takes the photo immediately owns the copyright – and Naruto took the picture. (Slater argued that he really "took" the photo by setting the camera up to the point where anyone – or any animal – could simply press a button, a basic and automatic action.) A judge dismissed the case, saying Naruto wasn't covered by U.S. copyright law because the copyright is owned by the person who takes the picture – and Naruto wasn't a person. PETA appealed



and both sides settled. Slater agreed to give 25% of earnings from the photos to groups protecting macaques in Indonesia.<sup>21</sup>

### Whitmill vs Warner Brothers

In 2011, tattoo artist S. Victor Whitmill sued Warner Bros., claiming they used his original tattoo design, which appeared on Mike Tyson’s face, in *The Hangover Part II* without permission. This case underscored the importance of intellectual property even in unconventional forms like tattoos, especially when used in commercial media<sup>22</sup>

In India Section 51 of the Copyright Act ,1957 specifies when a copyright is infringed. According to Section 51 of the Act, Copyright is deemed to be infringed if:

- \* A person without obtaining the permission of the copyright holder does any act which only the copyright holder is authorized to do.
- \* A person permits the place to be used for communication, selling, distribution or exhibition of an infringing work unless he was not aware or has no reason to believe that such permission will result in the violation of copyright.
- \* A person imports infringing copies of a work
- \* A person without obtaining the authority from the copyright holder reproduces his work in any form

#### Types of Infringement Copyright

Copyright infringement can be broadly classified into two categories:

1. Primary Infringement
2. Secondary Infringement

#### Primary Infringement

Primary infringement refers to the real act of copying the work of the copyright holder. For example, photocopying a book and then distributing it for commercial purposes. However, sometimes a person may only copy a part of the work, for example, a paragraph of an article. In such a case, the copyright holder is required to establish two things:

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<sup>21</sup> Naruto v. Slater, available at: <https://law.justia.com/cases/federal/appellate-courts/ca9/16-15469/16-15469-2018-04-23.html>( last visited march 5 ,2025)

<sup>22</sup> Mark Litwak, “The Hangover II:Tyson Tattoo Copyright Infringement Suit”available at: <https://www.marklitwak.com/the-hangover-ii-tyson-tattoo-copyright-infringement-suit.html>( last visited March 5,2025)

- Substantial Taking: -A copyright is infringed only when an unauthorized person copies a substantial part of the work. For example, copying a catchy phrase of a lyricist. While deciding the case, the court also tries to conceive, how an ordinary person will perceive the work. If an ordinary person will perceive that the work is copied from a different source then it will be considered infringement.
- Casual Connection: -The copyright holder must prove that there is a similarity in the works of the copyright holder and the infringer. However, this may be because of several other reasons like both of them have used the same source for the research. In such a case, the copyright.

### Secondary Infringement

Secondary Infringement refers to the infringement of copyright work without actually copying it. This can happen in the following ways:

- Providing a place for Copyright Infringement: -If a person provides the place or permits the place (for profit) to be used for communicating of the work the public and such work amounts to copyright infringement then such person can be made liable for the offence of copyright imprisonment. However, if the person is unaware or has no reason to believe that the place is used for copyright infringement then cannot be made liable for the same.
- Selling Infringing Copies: -If a person sells the copies that infringe the right of the copyright holder, then it will amount to copyright infringement.
- Distributing Infringing Copies: -When a person distributes infringing copies of the copyright holder works then it will amount to copyright infringement.
- Importing Infringing Copies: -Importing the infringed work of the copyright holder in India also amounts to infringement of Copyright. However, if the person has imported the infringed work for the domestic or personal use then it will not amount to Copyright Infringement.
- **The amount of the work copied**: How much of the original work was copied
- **The purpose of the copying**: Why the work was copied
- **The likelihood of competition**: How likely the two works are to compete

## **REMEDIES FOR COPYRIGHT INFRINGEMENT**

Under the Copyright Act, 1957 the copyright holder has two types of remedies:

### Civil Remedies

Section 55(1) of the copyright act provides that the copyright holder is entitled to remedy by way of injunction. Section 55(1) of the copyright act further provides that the copyright holder is entitled to damages for copyright infringement. Generally, the damages are awarded for the amount that the copyright holder would have got if the person had obtained the license from him. However, there are various other factors as well, that determines the amount of damages like the loss of profit to the copyright holder, loss of reputation, decrease in the sale of the copyright holder's work etc.

### Criminal Remedies

The copyright holder can take criminal proceedings against the infringer. The criminal remedy is not an alternative to the civil remedy but is complementary to it. Thus, the copyright holder can bring both civil and criminal proceedings simultaneously.

Copyright infringement shall be punished with imprisonment of six months which may extended to 3 years and a fine ranging from Rs/-50,000 to 2 Lakhs.<sup>23</sup>

## **COPYRIGHT INFRINGEMENT EXCEPTION**

### Doctrine of fair use and fair dealing

As courts attempted to reconcile the rights of copyright holders with the public's desire to allow copying under certain conditions, the "Doctrine of fair use" came into being. No particular set of definitions may be used to define fair usage. Instead, fair use is a more arbitrary definition that might change depending on the particular situation. This idea is fundamentally motivated by the idea that not all copying should be forbidden, particularly when it is utilized for "transformative use" or serves a socially meaningful function, such as in the pursuit of criticism, news reporting, education, research, or satire.

However, there are circumstances in which using a work without the permission of copyright holder does not amount to infringement. Under such circumstances, you can use the someone else's work without their permission or without the fear of copyright infringement. These situations come under the Doctrine of Fair use. In short, we can say Doctrine of fair use is an exception to copyright infringement, allowing limited use of copyrighted material without needing to obtain permission. Under the Doctrine of fair use, you can use the copyrighted material without the permission of the copyright holder but only to a limited extent. This doctrine emerged as to strike a balance between the rights of copyright owners and the public's interest in permitting copying in restricted

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<sup>23</sup> The Copyright Act, 1957 (Act 14 of 1957), S.63.

circumstances. Example of fair use purposes are News reporting, Research and educational purposes, Parody etc.

The court must take into account three factors in order to determine whether a usage qualifies as fair use: first, the type of work being copied; second, the quantity of copied work and the significant connection between the two; and third, the impact on the potential market. First, the nature of the work is evaluated, i.e., what kind of work it is, how important copyrighted material is to later work, etc. Next, we must determine how much of the work has been copied. If the majority of the work has been copied from another, we cannot claim fair use. We also need to determine whether there is a significant relationship between this and the original work. As we all know in order to succeed in an action for copyright infringement the author has to prove that there is a substantial connection between two works. Last one is regarding the impact on potential market, specifically whether both the works are rivalries in market and whether use of copyrighted work diminishes the market value of the same.

The idea of fair use is covered in both Article 992 of the Berne Convention and Article 13 of the TRIPS Agreement. "Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder," according to Article 13 of the TRIPS agreement.

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According to TRIPS Agreement Section 13, "Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder."<sup>24</sup>

'Fair dealing' which is a British concept is more rigid unlike 'fair use', which is derived from American law and is more flexible. In contrast, the US idea of "fair use" is based on a 'Four-factor test' that allows everything to be fair that meet the requirements of a legitimate use of a copyrighted work.

### The concept of Fair Use in the US

A similar concept of fair dealing is termed 'Fair Use' in the US. In fact, the concept originated in the US itself and can be traced back to the 19th Century. The case of *Folsom v. Marsh* is considered to be the first case where this concept was used, and a four-factor test was provided to determine the applicability of Fair use in copyright infringement cases. The four factors test for copyright infringement is a method used to determine if a copyrighted work has been used fairly. The factors are:

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<sup>24</sup> Unanza Gulzar, "Copyright Protection Under TRIPS" *International Journal of Intellectual Property Rights* 18(2013)

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- Purpose: The purpose of the use, including whether it is commercial or educational
- Nature of the work: The nature of the copyrighted work itself
  - Amount used: The amount of the copyrighted work used in relation to the whole work
  - Effect on market value: How the use of the copyrighted work affects its potential market value

These four factors were later codified and took the form of Section 107 of the U.S Copyright Act of 1976.<sup>25</sup>

### Doctrine of Fair Use in India

Under Indian law, the Copyright Act of 1957, states in its provisions that fair dealing with a literary, dramatic, musical, or artistic work that is not a computer program is not an infringement of copyright. Section 52(1)(a) provides that “a fair dealing with any work, not being a computer program, for private or personal use, including research, criticism or review, whether of that work or of any other work, the reporting of current events including the reporting of a lecture delivered in public shall not constitute an infringement of copyright

*Devendrakumar Ramchandra Dwivedi v. State of Gujarat and Ors.* In this case, the issue of whether playing music at Navratri, a Dandiya event, a Garba programme, or other festival-related events where there are entry charges falls under the purview of fair use or not, was raised before the Gujarat High Court. The Court held that, usually, fair use and fair dealing in such matters refer to on-profit performances of music and other non-dramatic works. Furthermore, since there is no commercial purpose, no entry charge or procedure for admission, or any hidden agenda like personal or economic gain, playing music during such ceremonies is permissible.<sup>26</sup>

In another landmark case of the *University of Oxford and Ors. vs. Rameshwari Photocopy Services and Ors*<sup>27</sup> the concept of Fair dealing was discussed. In 2012, Oxford, Cambridge, and Taylor Francis publishers initiated a legal case against Rameshwari Photocopy Services, located on the Delhi University campus and Delhi University itself. The publishers contended that the creation of course packs, which involved photocopying copyrighted materials, amounted to a violation of the exclusive copyrights held by the authors and publishers

The court here held that “ The basic purpose of Section 52 is to protect the freedom of expression under Article 19(1) of the Constitution of India so that research, private study, criticism or review or reporting of current events could be protected.” *The court here also highlighted that “the fairness in the use can be determined on the touchstone of ‘extent justified by the purpose’.* In other words, the

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<sup>25</sup> Measuring Fair Use: The Four Factors, available at: <https://fairuse.stanford.edu/overview/fair-use/four-factors/>( last visited March 9,2025)

<sup>26</sup> Copyright Infringement of Songs in Weddings,available at: <https://www.ourlegalworld.com/copyright-infringement-of-songs-in-weddings-ipr-club/>( Last Updated April 6,2024)

<sup>27</sup> Available at: <https://indiankanoon.org/doc/114459608/>( Last Visited march 9,2025)

utilization of the copyrighted work would be a fair use to the extent justified for purpose of education”

### Examples of Doctrine of Fair Use

- Reviews and Commentary: -Fair use typically applies to non-commercial uses, such as citing or excerpting a work in a review or criticism for illustrative or commentary reasons. It is acceptable for a newspaper column to include direct quotes from a book being reviewed.
- News reporting: -Fair use includes citing articles and using brief quotations in a news report. A journalist would be permitted to quote from a political speech's text without the politician's permission.
- Research and scholarship or education purpose: -Quoting a short portion in an academic, scientific, or technical publication for illustration or explanation of the author's observations would be judged permissible.
- Parody: -A work that parodies other, more well-known work does so by making humorous references to that original. A roast show or typically any drama created with the intention to make a pun out of it.

### The Donald Duck case

In this case (Disney v. Geva), the Israeli Supreme Court addressed the doctrine of fair dealing provisions for the first time via the work of the late artist David Geva. In this case, Geva created a character named "Moby Duck" in a book titled "The Duck Book" and remodelled Donald Duck. Upon seeing this, Disney sued Geva for copyright infringement. Geva contended that his use of Donald Duck's character was a parody and would fall under the fair use policy under American laws. Even though the Court decided against him, it set the foundation for fair use exceptions, and the Court readily accepted the four fair use factors as discussed under Section 107 of the US Act.<sup>28</sup>

## **CONCLUSION**

Copyright plays a vital role in protecting the intellectual property of creators while promoting creativity and innovation. By granting exclusive rights to authors, musicians, artists, and other creators, copyright ensures they receive recognition and financial benefits for their work. However, it also includes exceptions like fair use to balance public access to knowledge and cultural development. Understanding copyright laws is crucial in today's digital era, where content can be easily shared and reproduced. Respecting copyright helps prevent legal issues and supports ethical

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<sup>28</sup> SHAUL MITELPUNKT, "Duck Fights: Walt Disney versus Dudu Geva and the Politics of Americanization in Late Twentieth-Century Israel" Available at:

[https://eprints.whiterose.ac.uk/193016/1/duck\\_fights\\_walt\\_disney\\_versus\\_dudu\\_geva\\_and\\_the\\_politics\\_of\\_americanization\\_in\\_late\\_twentieth\\_century\\_israel.pdf](https://eprints.whiterose.ac.uk/193016/1/duck_fights_walt_disney_versus_dudu_geva_and_the_politics_of_americanization_in_late_twentieth_century_israel.pdf) (Last visited March 12,2025)

## **BIBLIOGRAPHY**

1. Copyright Act,1957(Act 14 of 1957)
2. Lionel Bently and Brad Sherman, Intellectual Property Law,(Oxford University press, New York,1<sup>st</sup> edn,2001)

3. Ishita Chatterjee, Copyright Law, (Central Law Publications, Allahabad, 2<sup>nd</sup> edn., 2018)
4. Unanza Gulzar, "Copyright Protection Under TRIPS" 4 International Journal of Intellectual Property Rights 18(2013)
5. Anuttama Ghose, "The Principle of Idea-Expression Dichotomy in Copyright Laws: Legal Scenario in India Compared to the Laws of U.S.A and United Kingdom" 7 Journal of Emerging Technologies and Innovative Research 595(2020)