



Copyright Symbol ©

- Use of the "©" symbol
- Anyone who claims copyrights can use it not necessary to have a registration to use the designations highly advisable to incorporate a copyright notice
- Example: Copyright © 2009 Microsoft Corporation

In India, the **Copyright Act, 1957 is compliant with these international conventions and treaties-**

- Berne Convention of 1886
- Universal Copyright Convention of 1951
- Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

What is Copyright?

“The exclusive right given by law for a certain term of years to an author, composer etc. (or his assignee) to print, publish and sell copies of his original work” (*Oxford English Dictionary*)

Term of Copyright

- ▶ **copyright lasts for 60 years** from the death of the author or creator from Literary, dramatic, musical and artistic work
- ▶ **copyright lasts for 60 years** from the date of publication for cinematograph films, sound recordings, photographs, posthumous publication and works of government and international organizations

What exclusive rights are provided?

Copyright provides “**to reproduce the work in any material form including the storing of it in any medium by electronic**”

Reproduction means:

- to issue copies of the work to the public not being copies already in circulation;
- to perform the work in public, or communicate it to the public;
- to make any cinematograph film or sound recording in respect of the work;
- to make any translation of the work;
- to make any adaptation of the work; and
- to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation.

What can be protected?

- literary work
- dramatic work
- musical work
- artistic work
- cinematograph films
- sound recordings
- broadcasts
- published editions
- a computer generated work

Literary work

- “Literary work” includes computer programmes, tables and compilations including computer “literary data bases”
- Any work written, spoken or sung, not just limited to letters or symbols but includes all works expressed in print and writing
- exclusions – Names, Trademarks and Tiles



Dramatic work

- includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematograph film
- Scenario or script for films, plays (written for the theatre, cinema, television or radio)

Musical work

means the person who composes the music regardless of whether he records it in any form of graphical notation

Song

- “music“ - a work exclusive of any words or action intended to be sung
- A song consists of musical work, literary work, the tune and lyrics



Artistic work

"artistic work" means-

- a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;
- work of architecture; and
- any other work of artistic craftsmanship.



Whose rights are protected?

- Copyright protects the right of **Author, i.e. creator of Intellectual Properties.**
- First Owner of Copyright
- However, in course of employment, the employer is the first owner of these rights

| Work | Creator of work |
|---------------------------|-----------------|
| Literary or dramatic work | Author |
| Musical work | Composer |
| Cinematograph | Producer |
| Sound recording | Producer |
| Photograph | Photographer |

Indian Perspective on Copyright

The Copyright Act, 1957 confers copyright protection in the following two forms:



ECONOMICAL RIGHTS

Several exclusive rights typically attach to the holder of a copyright:-

- to produce copies or reproductions of the work and to sell those copies (including, typically, electronic copies)
- to import or export the work
- to create derivative works (works that adapt the original work)
- to perform or display the work publicly
- to sell or assign these rights to others
- to transmit or display by radio or video

MORAL RIGHTS

Right of paternity: to claim authorship of work and to prevent all others from claiming authorship of his work

Right of integrity: to prevent distortion, mutilation or other alterations of his work, or any other action in relation to said work, which would be prejudicial to his honor or reputation.



Assignment of Copyright

- The owner of the copyright may assign to any person the copyright either wholly or partially.
- Duration, in case of default 5 years.
- The moral rights are independent of the author's copyright and remains with him even after assignment of the copyright.

COPYRIGHT INFRINGEMENT

Acts resulting Copyright Infringement

- Making infringing copies for sale or hire;
- Permitting any place where performance constitutes infringement of copyright;
- Distributing infringing copies for the purpose of trade;
- Public exhibition of infringing copies by way of trade; and
- Importation of infringing copies.



Remedies for Copyright Infringement

- Civil
- Criminal

Civil Remedies

- Injunction
- Damages
- Accounts of profit
- Delivery of infringing copy
- Damages for conversion

Criminal Remedies

- Criminal offences, if done knowingly

Imprisonment

6 months – 3years



Fine

Rs.50,000 – Rs.200,000

Seizure of infringing copies



*The views expressed in this article are those of the author.