

COPYRIGHT LAW: AN OVERVIEW

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Abstract

A copyright is a right conferred on the owner of literary or artistic work. It is an exclusive right to control the publication, distribution and adaptation of creative works. It lies with the owner - cum - copyright holder for a certain period. As the time lapses, the work can be republished or reproduced by the others (Battase, 2014).

Keywords

Copyright, protected works, not protected works

Introduction

Copyright is a legal right created by the law of a country that grants the creator of an original work exclusive rights to its use and distribution, usually for a limited time. It is a form of intellectual property applicable to any expressed representation of a creative work. These rights include reproduction, control over derivative works, distribution, public performance (Wikipedia.org). Copyright is the exclusive right of the author to derive economic benefits from his own writing, artistic performance or creative work. It protects the interest of writer or creator from commercial exploitation by others. (Lavate, 2014).

Definition of copyright

i) British Dictionary defines copyright as the exclusive right to produce copies and to control an original literary, musical or artistic work, granted by law for a specified number of years (dictionary.reference.com)

ii) Copyright is a form of legal protection automatically provided to the authors of 'original works of authorship', including literary, dramatic, musical and artistic works. (teachingcopyright.com)

iii) Copyright is the sole right in the case of unpublished works to produce or reproduce any literary, dramatic or musical work or any substantial part of a work in any material form whatsoever, provided the author is qualified to hold copyright (Rawat & Kumar,2002)

Meaning

Copyright is a legal means of protecting an author's work. It is a type of intellectual property that provides exclusive publication, distribution and usage rights for the author. This means whatever content the author created cannot be used or published by anyone else without the consent of the author. (techterms.com). It is a right reserved to authors for limited time to their creations. Copyright is a law that gives the author ownership over the things he creates, be it a painting, a photograph, a poem or a novel.

Copyright is no different than owing a car, a house or a pen. One can lend it out to a friend, sell it, modify it or even destroy it. It only makes sense that one would own the fruits of one's labor. (plagarismtoday.com)

A creator of work owns 5 rights:

- i) The right of reproduction. It includes copies and sound or video recordings.
- ii) The right of adaption. This means works created from the original, such as a play or movie from a book, a change of format from analog to digital or a modification of the work such as transforming a work of art into a logo or commercial icon.
- iii) The right of distribution. It includes transmission by radio, television, cable, LAN or internet.
- iv) The right of public performance. It is for motion media, audio recording, plays dances etc.
- v) The right of public display. It is especially for still images, graphics, artwork etc.

Copyright includes the sole right to produce, reproduce, perform or publish any translation of a particular work; to convert a dramatic work into a novel or other non-dramatic work, to make any record, film, sound or television broadcast etc.

Generally ownership of the copyright vests in the author, where a person is employed under a contract of service to produce literary works, copyright in those articles produce in the course of the servant's employment vest in the employer.

The owner of the copyright may assign his rights wholly or partially, generally or limited to an area, for the whole remaining period or a part provided he does so in writing signed by the owner or his authorized agent. Licenses may be granted on payment of a fee for performance or reproduction on limited occasion. (Encyclopedia)

There can be no copyright in an idea. Copyright exists only when that idea is published in any form of works or form of expression such as a play or picture or article. No copyright exists in the substance or theme of the work but only in the original presentation of that theme; like

written tables, trade statistics, may become literary works provided some skill and labour are required to arrange the matter.

Types of works protected by copyright

Many different types of content can be protected by copyright. For example books, poems, plays, songs, films, artworks etc. In today's modern times, copyright protection has been extended to websites and other online content. Therefore any original content published on the web is protected by copyright law (techems.com). Here are some types of works listed below which are protected by the copyright law.

- i) Literary works
- ii) Music and Lyrics
- iii) Dramatic Works
- iv) Choreographic Works
- v) Photographs, Graphics, Paintings and Sculptural Works
- vi) Motion Pictures and other Audiovisual Works
- vii) Video games and Computer Software
- viii) Audio Recordings
- ix) Architectural Works

Types of works not protected by copyright

- i) Unfixed works that have not been recorded in a tangible, fixed form
- ii) Works, like titles, names, short phrases, familiar symbols or designs, in public domain
- iii) Ideas and Facts
- iv) Processes and Systems

v) Federal Government Works (teachingcopyright.org)

Copyright and libraries

Over the centuries copyright law which was originally tailored to the technology of print has been adapted several times, in order to respond to technological changes. Now it is yet again been challenged by the advances of digital technologies. These represent something completely new in respect of the fact that they allow the entire information (text, sound and visuals) to be generated, altered and used by and on one and the same device irrespective of whether it is provided online and offline. As a result, creator of intellectual property are afraid of an increase in the unlawful reproduction of works, Internet Service Providers as well as private and public libraries, archives etc.

Libraries have been the means for maintaining the historical and statutory balance in copyright law. The basic role of libraries is achieved by way of various provisions, like the first sale doctrine, by way of sharing materials etc. Libraries enable users to access copyrighted and public domain works and to exercise their rights under the exceptions and limitations to creators' rights in the law. Libraries play a dual role of preserver as well as facilitator of maintaining the decorum of copyright.

There are provisions for libraries for making use of copyright limitations and exceptions as provided under the copyright law. These provisions for libraries allows libraries to carry on with its normal functioning of dissemination of information resources by way of reproduction as per the section 52(1)(p) of Indian Copyright Law. In India Copyright law was amended many times and the latest being 2012 amendment, the fair dealing exceptions has remain intact, for the posteriori of human knowledge for innovation and creating and for this there is no other better means than libraries. In the digital era libraries should take care that the digital resources are very well under the copyright aegis and hence have to be copy controlled by way of various technological measures like IP protection, password protection etc. Libraries as non profit and educational institutions have been granted certain privileges under the copyright law. (Dubey & Hirwade, 2014).

The generalized privileges for libraries mostly applicable in most of the countries law are as follow

- 1) Libraries open to the public can make one copy of a work for non-commercial purposes. (Only for textual form and not for pictorial graphics, sculptural, or audiovisual works)
- 2) Libraries can make up to three copies for preservation, replacement, or to transfer the material to a new medium if the current one becoming obsolete.
- 3) Libraries can make a copy of one journal article or small part of a work for scholarship and research work.
- 4) Libraries can a make a copy of a complete or substantial part of a work if it becomes the property of the user, will be used only in scholarship or research, and cannot be obtained normally at a reasonable price.
- 5) Any digital copies made or not to accessible to the public outside of the library premises.

Summary

Copyright is more than right protecting against the unauthorized copying a work. The copyright owner enjoys considerable ancillary rights and remedies in addition to protection against the unwanted copying of his/her protected work. Copyright is personal property. It may be bought, sold or passed on by the owner by way of a will.

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Bio

Shrinivas M. Athalye is Working as Librarian at Swami Vivekanand Night College of Arts and Commerce, Dombivli for last 12 years. He had Written many articles and research papers, Participated and presented papers in National and State level seminars and conferences, Written books for B.Lib. and M.Lib. students in Marathi. Doing Ph.D. from Tilak Maharashtra Vidyapeeth, Pune.