

COPYRIGHTS: OVERVIEW AND TRENDS

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Abstract

Intellectual property is an evolving discipline associated with creation and utilization of rational or innovative work. Copyright is an intellectual property in the form of literary, dramatic, musical and artistic works and cinematograph films and sound recordings that gives the creator a bundle of rights including adaptation and translation of the work, rights of reproduction and communication to the public. The paper deals with various aspects of copyrights such as functioning of Copyright Office, Exclusive Rights in different works, Copyright Societies, remedies against copyright infringement, etc. and examines the trends in copyrights since the transfer of Copyright Registry from Ministry of HRD to DIPP in 2016-17. The applications filed for Copyright have shown an increasing trend. During the year 2017-18, filing of applications has increased by 7.4% and number of applications examined increased by 92.7% as compared to 2016-17. Further, during 2017-18, there has been remarkable progress in copyright registrations which increased by 456%, whereas final disposal of applications increased by 631%, as compared to last year. During the year 2018-19, filing of applications has increased by 2.29% as compared to 2017-18. Due to computerization and re-engineering of registration processes, performance in Copyright Office has immensely improved.

Keywords: Copyrights, Copyright Office, Copyright Societies, Intellectual property

Introduction

Copyright is the right of an owner of a work to control the uses of the work and financially benefit from its exploitation. Such work is the creation of human intellect in the form of literature, artistic, musical, dramatic, cinematograph films and sound recording works. The copyrights and related issues are administered under the provisions of the Copyright Act, 1957, which has been amended from time to time to meet the emerging challenges in digital era and to make the law consistent with the rapid development in technology.

Earlier, the administration of the Copyrights was under the Ministry of Human Resource Development (MHRD), Dept. of Higher Education which has been transferred to Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (DIPP) vide Cabinet Secretariat Notification S.O. 1163(E) dated 17.03.2016 in order to consolidate the entire IPR regime under one umbrella as per national IPR policy.

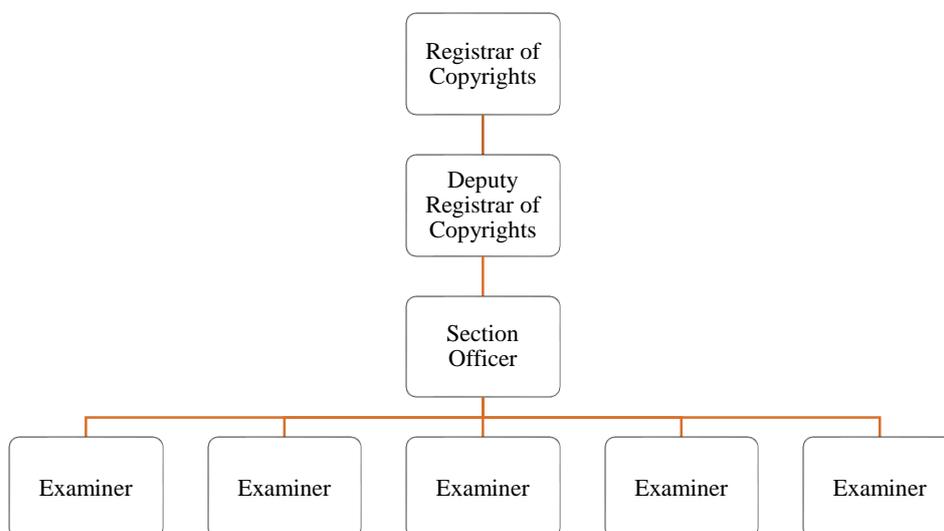


Figure: 1 Organisational Structure of Copyright Office

Functioning of Copyright Office

The Copyright Office was established in 1958 under section 9(1) of the Copyright Act, 1957. The main operation of the Copyright Office is to manage registration of copyrights. The quasi-judicial powers to handle cases related to the copyrights are bestowed upon the Registrar of Copyrights. The Register of Copyrights (ROC) maintained by the Copyright Office provides information regarding works registered under the Copyright Act, 1957 to the general public. The domain of copyright office also undertakes inspection of the Register of Copyrights, change in particulars, taking extracts thereof, administration of Copyright Societies, etc.

There are 6 different types of "works" recognised under the Copyright Act, 1957:

1. Literary Works (including computer programs/software) - for example: articles, books, databases, lyrics, poems, etc.
2. Artistic Works- for example: drawings, labels, maps, sketches, paintings, etc.
3. Dramatic Work- for example: any piece of recitation, choreographic work, scenic arrangement which is fixed in writing, etc.
4. Musical Work- for example: musical composition which may be void of graphical notation etc.
5. Sound Recordings- for example: recording of a musical composition in a CD or any other suitable medium etc.
6. Cinematograph Films- for example: essentially a visual recording and includes a sound recording etc.

Details of Processing Fee for Copyrights

The details for official fee for copyright registration for various works and for an application for compulsory licence are given below:

Table: 1 Fee details

S. no.	For an application for compulsory licence	Fee (in rupees)
1	For a license to republish a Literary, Dramatic, Musical or Artistic work (Sections 31, 31A,31B* and 32A)	5,000
2	For a license to communicate an any work to the public by Broadcast(Section 31(1)(b))	40,000
3	For license to republish a Cinematograph Film (Section 31)	15,000
4	For a license to republish a sound recording (Section 31)	10,000
5	For a licence to perform any work in public (Section 31)	5,000
6	For a license to publish or communicate to the public the work or translation (Section 31A)	5,000
7	For a license to publish any work in any format useful for person with disability (Section 31 B)	2,000
8	For an application for a license to produce and publish a translation of a Literary or Dramatic work in any Language (Section 32 & 32-A)	5,000
9	For an application for registration or copyright in:	
	(a)Literary, Dramatic, Musical or Artistic work	500
	(b)Provided that in respect of a Literary or Artistic work which is used or is capable of being used in relation to any goods or services (Section 45)	2,000
10	For an application for change in particulars of copyright entered in the Register of Copyrights in respect of:	
	(a) Literary, Dramatic, Musical or Artistic work	200
	(b)Provided that in respect of a literary or Artistic work which is used or is capable of being used in relation to any goods or services (Section 45)	1,000
11	For an application for registration of Copyright in a Cinematograph Film (Section 45)	5,000
12	For an application for registration of change in particulars of copyright entered in the Register of Copyrights in respect of Cinematograph film (Section 45)	2,000
13	For an application for registration of copyright in a Sound Recording (Section 45)	2,000
14	For an application for registration of changes in particulars of copyright entered in the Register of Copyrights in respect of Sound Recording (Section 45)	1,000
15	For taking extracts from the indexes (Section 47)	500
16	For taking extracts from the Register of Copyrights (Section 47)	500
17	For a certified copy of an extract from the Register of Copyrights of the indexes (Section 47)	500
18	For a certified copy of any other public document in the custody of the Register of Copyright or Secretary of the Copyright Board	500
19	For an application for prevention of importation of infringing copies (Section 53) per place of entry	1,200

Source: <https://copyright.gov.in>

Ownership of Copyright

The copyright law confers some exclusive rights to the owner, though for a limited period. Any use of work without authorization/permission of the owner of work may amount to infringement of the copyright. (Certain limitations & exceptions are provided under the Copyright Act). The law also ensures that once a period of holding exclusive rights is over, the general public should have free access to the work.

Exclusive Rights (copyright) in different works under the Copyright Act, 1957:

The Copyright Act, 1957 grants some exclusive rights, in works, in favour of the copyright owner. These exclusive rights according to the relevant works are identified below:

Exclusive Right	Work
Reproduction and Storage including in electronic form	Literary Works, Musical Works, Artistic Works, Dramatic Works, Computer programs, Cinematograph film, Sound recording
Issue copies (distribution)	Literary Works, Musical Works, Artistic works, Dramatic Works, Computer programs
Performing in public	Literary Works, Musical Works, Dramatic Works
Communication to the public	Literary works, Musical Works, Artistic works, Dramatic works, Computer programs, Sound recordings, Cinematograph Films
Translation	Literary Works, Musical Works, Dramatic Works, Computer program
Adaptation	Literary Works, Musical Works, Dramatic Works, Artistic Works, Computer program
Rent/Sell	Computer programs, Sound recordings, Cinematograph Films

In addition to copyright, the copyright act, 1957 confers some specific rights also, *akin to* copyright, that are:

1. Broadcast Reproduction Right (Section 37)
2. Performer's Rights (Section 38 and Section 38A)

Table: 2 Exclusive Rights in Broadcasts and Performances

Right akin to Copyright granted by the Copyright Act, 1957	Exclusive Right
Broadcast Reproduction Right	<ul style="list-style-type: none"> -To rebroadcast the Broadcast. -To cause the broadcast to be heard or seen by the public on payment of any charges. -To make any sound recording or visual recording of the broadcast. -To make any reproduction of such sound recording or visual recording where such initial recording was done without licence or, where it was licensed, for any purpose not envisaged by such licence. -To sell or give on commercial rental, or offer for such sale or such rental, any such sound recording or visual recording referred to above.
Performer's Rights	<ul style="list-style-type: none"> -To make a sound recording or a visual recording of the performance. -Right to Reproduce and store the said recording of the performance. -Right to issue copies of the said recording to the public. -Right to communicate the said recording of the performance to the public. -Selling or giving on commercial rental, or offering for such sale or such rental, any copy of the said recording. -Right to Broadcast or communicate the performance to the public except where performance is already broadcast.

The Copyright Societies

A copyright society is a registered collective administration society under Section 33 of the Copyright Act, 1957. Such a society is formed by authors and other owners. Usually, only one society is registered to do business in respect of the same class of work. A copyright society can issue or grant licences in respect of any work in which copyright subsists or in respect of any other right given by the Copyright Act. A copyright society is granted registration for a period of 5 years which may be renewed time to time before the end of every 5 years.

A copyright society has the following functions:

- (1) A copyright society may issue licences and collect fees in accordance with its Scheme of Tariff in relation to only such works as it has been authorised to administer in writing by the authors and other owners of rights and for the period for which it has been so authorised.
- (2) The distribution of fees collected shall be subject to a deduction not exceeding fifteen percent of the collection on account of administrative expenses incurred by the copyright society.

Registered Copyright societies in India

Following are the copyright societies registered in India:

- **Indian Performing Rights Society (IPRS)** - For musical and literary works associated with such musical work.
- **Indian Reprographic Rights Organization (IRRO)** - For Reprographic (photocopy) works.
- **Indian Singers Rights Association (ISRA)** - For Performers (Singers) Rights and other activities.

International Conventions/ Treaty/ Agreements

In order to secure protection to Indian works in foreign countries, India has become a member to the following International Conventions on copyright and related rights:

- Berne Convention for the Protection of Literary and Artistic works,
- Universal Copyright Convention,
- Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement,
- Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons (VIPs) & Persons with Print Disabilities,
- WIPO Copyright Treaty (WCT),
- WIPO Performances and Phonograms Treaty (WPPT).

Remedies against Copyright infringement

Chapter XII and Chapter XIII of the Copyright Act, 1957 provides civil and criminal remedies against the copyright infringement. Section 54-62 deals with the civil remedies and criminal remedies have been given under Section 63-70 of the copyright Act, 1957.

Table: 3 Remedies against copyright infringement

Remedies against copyright infringement	Section (of copyright act, 1957)
1. Civil remedies	54-62
2. Criminal remedies	63-70

Trends in Copyright

The copyright administration was shifted to DIPP/CGPDTM in the year 2016-17. The trends in copyrights applications from 2016-17 onwards to 2018-2019 are examined below:

Table: 4 Trends in Copyrights

Year	Total no. of applications received	Total no. of applications examined	ROC (Register of Copyrights) generated	Total discrepant letters issued	Total disposal
2016-17	16617	16584	3596	12988	5444
2017-18	17841	34388	19997	29309	39799
2018-19	18250	22658	14625	7951	25943

Source: <https://ipindia.gov.in>

- During the year 2016-17, a total of 16617 copyrights applications were received and 16584 applications were examined. After examination of the applications, 12988 discrepancy letters were issued to the applicants for rectification and 5444 applications were disposed. The total number of ROC generated during the year is 3596.
- During the year 2017-18, a rise can be seen in both no. of applications received and no. of applications examined. A total of 17841 applications were received and 34388 applications were examined during 2017-18 whereas no. of registrations of copyrights (ROC) was 19997. During the year, 29309 new discrepant letters were issued and total no. of applications disposed was 39799.

During the year, filing of applications has increased by 7.4% and number of examined increased by 92.7% as compared to 2016-17. Pendency in examination of copyright applications has reduced to less than 1 month, which was 13 months prior to March 2017. Further, during 2017-18, there has been remarkable progress in copyright registrations which increased by 456%, whereas final disposal of applications increased by 631%, as compared to last year.

- The statistical data for the year 2018-19 reveals that total applications received and examined are 18250 and 22658 respectively. During the year, filing of applications has increased by 2.29% as compared to 2017-18. During examination, discrepancies observed were communicated to the applicants for rectification. The total disposal during the year was 25943 and a total of 14625 Register of Copyrights were generated.

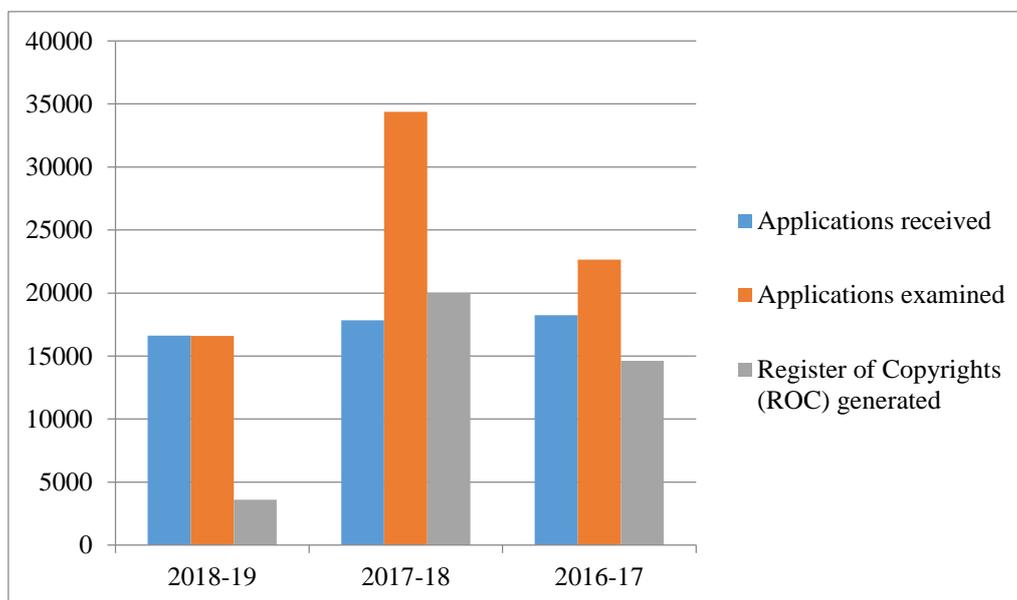


Figure: 2 Trends in copyrights applications

Conclusion

It is well-established that creativity and innovation is the key to the prosperity of a country. Intellectual property is an important discipline covering numerous aspects pertaining to creation, innovation and securing rights of the holder of such property. Copyright in India is an Intellectual Property in the form of literature, dramatic, musical, artistic, cinematograph or sound recording works. The functioning of Copyright office is being reengineered through computerisation and IT-enabled procedures and augmentation of manpower. With passage of time, the awareness about copyright has been increasing day by day and accordingly, the registration work of copyright office has also increased multi-folds. In order to increase transparency and stakeholder's participation, the Copyright office has started to display the applications received on its website on a monthly basis. The applicants can also track the status of their application online.

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