

वाक्यार्थज्योतिः Vākyaṛthajyotiḥ

अङ्कः - 2

वर्षः - 2015-16

प्रधानसम्पादकः

प्रो. अर्कनाथचौधरी

सम्पादकौ

डॉ. पङ्कजकुमारः रावलः

डॉ. शत्रुघ्नपाणिग्राही



श्रीसोमनाथसंस्कृतयुनिवर्सिटी
वेरावलम्

श्रीसोमनाथसंस्कृतविश्वविद्यालयप्रत्यमाला-१०

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श्रीसोमनाथसंस्कृतयुनिवर्सिटी-वेरावलम्- गुजरातम्

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Ravindra Suryakant Kale

Copyrights in India : an Introduction

Ravindra S. Kale

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What is copyright?

As per the Indian copyright law 2012 "Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. In fact, it is a bundle of rights including, inter alia, rights of reproduction, communication to the public, adaptation and translation of the work". (1)

Indian copyright law introduced in colonial India by British Empire to control over the publications printed within the Indian territory. Copyright Act 1957 was the first post-independence law has been amended in five times since then in the year 1983, 1984, 1992 and 2012.

Copyright = Intellectuals Property Right (IP) means "Intellectual property (IP) is a term referring to a brand, invention, design or other kind of creation, which a person or business has legal rights over. Almost all businesses own some form of IP, which could be a business asset." (2)

Which includes,

i) Patents. ii) Copyrights.iii) Trademarks. iv) Industrial designs. v) Protection of Integrated Circuits layout design. vi) Geographical indications of goods. vii) Biological diversity. viii) Plant varieties and farmers rights. ix) Undisclosed information.

1. Patents – this protects commercial inventions, scientific inventions, Industrial product invention etc.
2. Trade Marks – this protects signs, symbols, logos, words or sound that distinguishes your product.
3. Copyrights – 1. Writings. 2. Paintings. 3. Musical works. 4. Dramatics works. 5. Audio-Visual works. 6. Sound recordings. 7. Photographic works. 8. Broadcast. 9. Sculpture. 10. Drawings. 11. Architectural works. 12. Computer works etc.
4. Industrial Designs – this protects designs, such as drawings of computer models.
5. Geographical Indications – Which is give reorganization to the product which originate from the place or particular Geographical area? Through this people know the origin of the work or product like Basmati Rice, Patan na Patola, Darjeeling Tea, Mysore Silk, Madhubani paintings etc.

Transfer of Copyright:

The owner of the copyright in an existing work or

prospective owner of the copyright in a future work may assign to any person the copyright, either wholly or partially in the following manner. i. For the entire world or for a specific country or territory; or ii. For the full term of copyright or part thereof; or iii. Relating to all the rights comprising the copyright or only part of such rights. (3)

Ownership of Rights :

a). Literary – Author ; b) Dram – Dramatist ; c) Music – Composer; d) Artistic work – Artist e.g Painter, Sculptor, Architect.; e) Photograph – Photographer ; f) Author of Computer Program – Person who causes the work to be created “Programmer” ; g) Cinematograph film – Producer ; h) Sound recording – Producer ; i) 'in the course of employment' – Employer ; j) Employment by newspaper, magazine – Employer has publishing right ; other rights with Authors ; k) Photograph, Painting, Cinema for valuable consideration – Person who pays money ; l) Lecture delivered in public – Person delivering ; m) Government work – Government ; n) Public undertaking – Public Undertaking ;

Violation of the Copyright in India :

- i. Civil Suits for injunctions, damages, and account.
- ii. Court of Jurisdiction: District Court where copyright owner resides or does business.
- iii. Cognizable offence.

- iv. Seizure without warrants by Sub-Inspector.(4)

Penalties and Punishments:

- i. First offence – Six Months imprisonment and 50,000/- fine.
- ii. Second offence – one year imprisonment and Rs. 1,00,000/- fine.
- iii. Maximum – three years imprisonment and 2,00,000/- fine.
- iv. Knowing use if infringing copy of a computer programme attracts seven days imprisonment and 50,000/- fine (5)

Exceptional rules for Copyright in India:

- i. Fair Use' - Fair dealing for private use, research, criticism, review, reporting.
- ii. Judicial proceedings.
- iii. Work of Legislature.
- iv. Performance in an Amateur club.
- v. Making three copies of book, not available, for library use.
- vi. Reproduction of public material.
- vii. Use in religious or official ceremonies including marriage processions. (6)

Duration of Copyright / Intellectual Property Rights:

- 1) Term of every Patent will be 20 years from the date of Filing of Patent application, irrespective of whether it is filled with provisional or complete specification. Date of Patent is the date on which the application for Patent is filed.
- 2) Term of every trademark registration is 10 years from the date of making of application which deemed to be the date of registration.
- 3) Copyright generally lasts for a period of Sixty years after the death of the author (Author's Life + 60 years).
- 4) The registration of Geographical indication is valid for a period of 10 years.
- 5) The registration of Chip Layout design is for a period of 10 years count from the date of filing an application for registration of groom the date of first commercial exploitation anywhere in India or in any convention country or country specified by Government of India whichever is earlier.
- 6) The Duration of protection of register varieties is different from different crops namely 18 years for trees and vines, 15 years for other crops and extant varieties.

- 7) Broadcasting on Radio or in Air or in any means for 25 years.
- 8) Employer gives employment to an employee and makes a contract with employee for any research project / work the rights remain with employer for 5 years only. If employer does not make any contract then right remain with the author only. (7)

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