



## *Copyright:*

### Right, Royalty, License

Intellectual Property Rights are legal rights granted to a person for a specific period for any creative and artistic work, any invention or discovery, or any literary work, words, phrases, symbols, or designs.

#### *What is a Copyright, exactly?*

Copyright is described by the word itself: **It is the right to copy**. It describes the intellectual property owner's legal rights. The only person who can copy or grant permission to copy a work, such as song lyrics or an original drawing, is the person who owns the copyright to it. Copyright holders can collect royalties when others use their copyrighted work, in addition to being able to assign, licence, or use it for funding.

Section 14 of The Indian Copyright Act, 1957 (hereinafter referred to as "Copyright Act") defines the term "copyright."

We would explain the same in easy words as follows:

Copyright is a set of exclusive rights granted to the owner of copyright under Section 14 of the Act that includes reproduction, public communication, adaptation, and translation of the work, among others. Originality in expression is the only criterion used to determine whether someone is entitled to copyright protection. Creators of literary, dramatic, musical,



and artistic works, as well as producers of cinematograph films and sound recordings, Computer Programmes, have a legal right to copyright.

Copyright can be obtained for almost anything visible, such as a script, photo, book, essay, film, video, or architecture, as well as intangibles like music. *The most important factor in determining whether or not an article is **copyrightable is its originality.***

The law of copyright covers a wide range of intellectual property, including:

- Books, articles, reviews, poems, essays, blogs, plays, movies, and broadcasts are all examples of writings;
- Contents of website: Text, images, graphics, and even the page layout are all included;
- Business, personal, and entertainment computer programmes;
- Audio or motion pictures: Films, television shows, and podcasts;
- Music: both recorded and live performances of lyrics and instrumentals;
- Works of art: Paintings, drawings, sculptures, graphics, maps, charts, and photography are among the works on display.

***In India, a term of life plus sixty years is used to determine the period of copyright protection.***

Copyright registration is automatic once the original work is completed and does not require any formalities. *However, in the event of a dispute over copyright ownership, the certificate of registration of copyright and the entries made therein serve as prima facie evidence in a court of law.*

*The author or creator of the work is the first owner of the copyright, according to Section 17 of the Act. In cases where an employee creates a work in the course and scope of employment, the employer becomes the copyright owner.*

## Registration procedure:

The procedure for registration under the Copyright Act is outlined in Chapter VI of the Copyright Rules, 1958. The registration procedure is as follows:



- The application for registration should be made on Form IV (Including Statement of Particulars and Statement of Further Particulars) as prescribed in the first schedule to the Rules;
- Separate applications should be made for each work;
- Each application should be accompanied by the requisite fee prescribed in the second schedule to the Rules; and
- The applications should be signed by the applicant or the advocate in whose favour a Vakalatnama has been granted. The Power of Attorney should also be enclosed, signed by the party and accepted by the advocate.

## **Steps for Registration of Copyright:**

### **Step 1: Filing of Application:**

Application to be filed with the respective authority along with the requisite fee, once the application is filed, A diary number will be generated and issued to the applicant simultaneously.

### **Step 2: Examination of the Application:**

It is mandatory to wait for at least 30 days for the objections to be filed against Copyright Application.

If no objection has been received the application will be sent to the examiner for the scrutiny; and if there is no discrepancy found during the process the application will be approved and would be registered.

On contrary if Objection has been received relating to the application filed by the applicant; Department would send letter to the concerned parties and would provide them a hearing opportunity, consequently a hearing would be schedule for it.

As per the outcome of the hearing if the application has been accepted by rejecting the Objection filed; Application would be shared to the examiner for scrutiny and further process would be same as mentioned above in case of no discrepancy. If the application is rejected over the opposition a letter of rejection would be sent to the Applicant.

In case of Scrutiny by the Examiner; any discrepancy is found by him, a letter of discrepancy will be issued on the applicant and reply to be filed by the applicant within

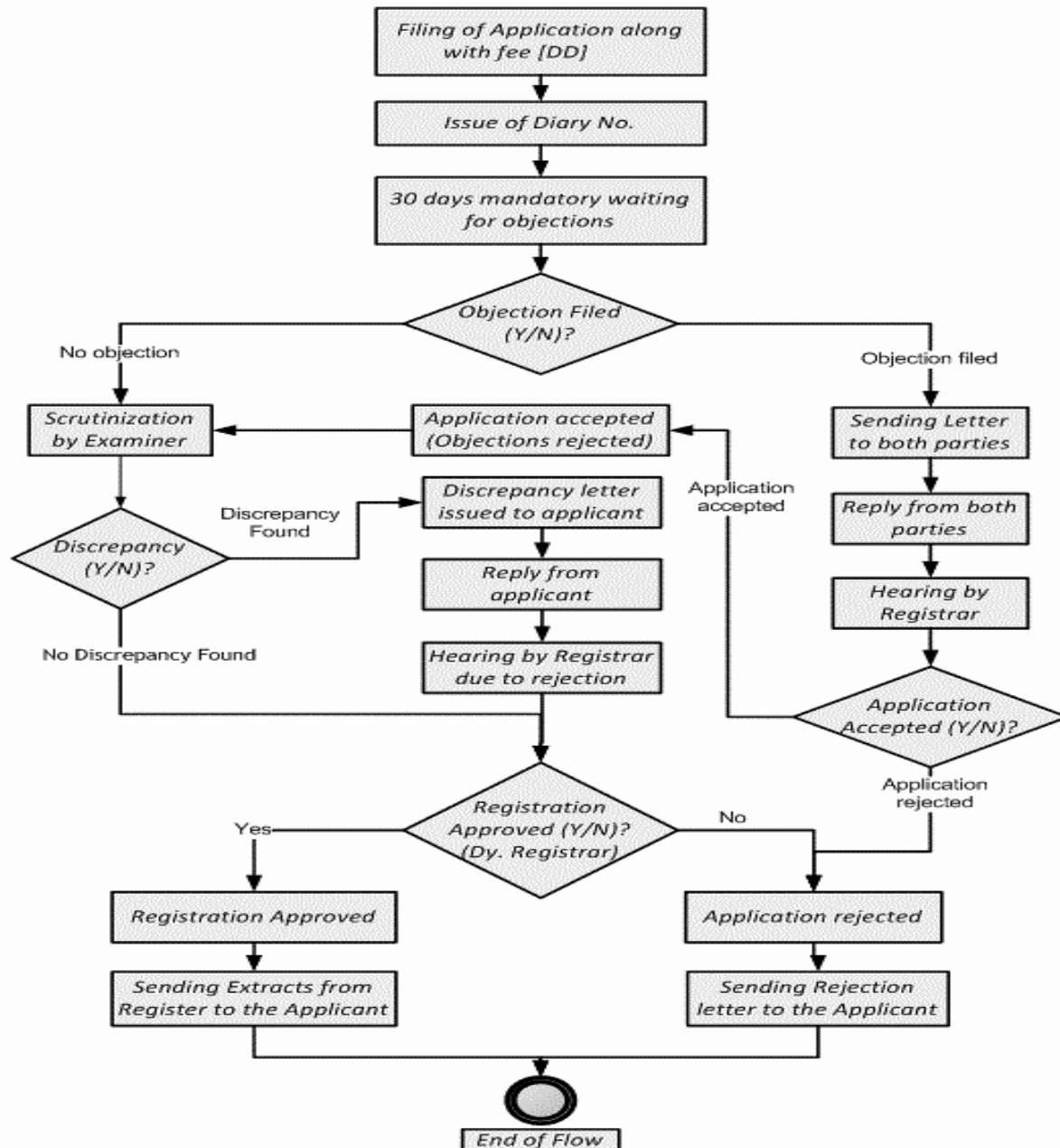


specified time limit, there will be still 2 consequences i.e. whether the reply will be rejected by the Examiner or accepted by him,

If Reply was not satisfactory the application would be rejected and Rejection letter would be issued to the applicant,

If the Reply would be Satisfactory to the Examiner, the application would be accepted and marked as registered.

## Copyright Registration Workflow





*A copyright holder who wishes to pursue a civil or criminal action against an infringer should register their copyright. The registration process is straightforward, and the paperwork is minimal. If the work was created by someone other than an employee, a copy of the assignment deed must be submitted with the application.*

The Copyright Board of Goa held in Hindustan Pencils Ltd v Alpna Cottage Industries that where the similarities between the parties' artistic works are fundamental and substantial in material aspects, it is a copyright violation, and the defendant's copyright is liable to be expunged from the copyright register.

The Board cited the case of Prem Singh v Cec Industries, in which it was stated: 'In a case where the first party is shown to have adopted or imitated a trademark and copyright of a third party, Courts can resolutely decline to step in aid of this party because the honesty of action is the crux of the matter, and Courts protection is extended only on the principle that damage to a party who has acquired goodwill or reputation in a certain trading style for the purpose.

## Copyright Work Registration has the following benefits:

- Registration creates a public record of the copyright claim.
- One of the most significant benefits of copyright protection is that it is available in several countries around the world, even if the work is first published in India due to India's membership in the Berne Convention. Works first published in India are protected in all countries that are signatories to treaties and conventions to which India is a party. Thus, copyright protection is available to works first published in India across several countries without the need to apply for it. In addition, the Indian government has extended copyright protection to works first published outside India under the International Copyright Order, 1999.
- Copyright registration is beneficial to far more than creatives and artists. Copyright registration can also help the company safeguard important software, company websites, and marketing/advertising materials such as photographs, graphics, and written copy. One should register the copyright if it is critical to a company. One'll have much more legal protections, and one'll be able to recover more money in a copyright-infringement lawsuit.
- Registration provides sufficient evidence in court for the validity of the document.
- If you register, you will be eligible for statutory damages and attorney's fees.



- Registration allows the copyright owner to record the registration with the Indian government.
- Customs to prevent infringing copies from entering the country.

## Licensing is Required

Under certain circumstances, both published and unpublished works may be subject to compulsory licencing. Compulsory licences are also available for the production, publication, or translation of the work. The procedures for obtaining compulsory licencing for both Indian and foreign works are different.

## License Cancellation

The Copyright Board can revoke a licence if the licensee fails to produce and publish a translation of the work within the specified or extended period.

- The licence was obtained through fraud or misrepresentation of an essential fact, and the licensee has violated any of the license's terms and conditions.

## ***Infringement***

When dealing with copyright, it's important to remember that it only protects originality, not novelty. Only the expression, not the idea, is protected by copyright. As a result, it cannot be protected if it is the only means of expressing the work. The best example is a telephone directory, which lists the name, address, and phone number in alphabetical order. There is no other way to express the same. As a result, there would be no copyright infringement.

*The following are the essential elements for filing an infringement case:*

- Prove Copyright Ownership Infringer has copied (Substantially Similar);
- Following the establishment of the owner's rights, the next step is to establish that an actual infringement has occurred.

## Conclusion

Because it enriches a country's national cultural heritage, copyright law is considered an essential law of protection. However, the greater the level of protection afforded to literary,



dramatic, musical, or artistic work in any country, the greater the number of intelligent creations, and thus the greater their renown. In the end, one can say that it is the basic prerequisite for economic, cultural, and social development.

To meet the ever-increasing challenges posed by changing circumstances and new technology, the existing law can be interpreted to adequately cover all aspects of copyright. This can be accomplished by employing the purposive interpretation technique, which calls for existing law to be interpreted in such a way that justice is served in the facts and circumstances of the case.