

FAQ'S

Doing Business in India

IPR (Copyrights)

1. How long will I have to wait to get my work registered by the Copyright office?(Under the Copyright Act 1957)

•After you file your application and receive diary number you have to wait for a mandatory period of thirty days so that no objection is filed in the Copyright office against your claim that particular work is created by you. If such objection is filed it may take another one month time to decide as to whether the work could be registered by the Registrar of Copyrights after giving an opportunity of hearing the matter from both the parties. •If no objection is filed the application goes for scrutiny from the examiners. If any discrepancy is found the applicant is given thirty days time to remove the same. Therefore, it may take two to three months time for registration of any work in the normal course. The cooperation of the applicant in providing necessary information is the key for speedy disposal of the matter. For further details please access following link.

2. How can I get copyright registration for my Website?(Under the Copyright Act 1957)

Website as a whole is not subject to copyright protection. Generally, non-copyrightable content particular to websites may include but are not limited to ideas or future plans of websites, functional elements of websites, unclaimable material, layout and format or 'look and feel' of a website or its webpage; or other common, unoriginal material such as names, icons or familiar symbols. For further details please access following link.

3. Whether unpublished works are registered?(Under the Copyright Act 1957)

Yes. Both published and unpublished works can be registered. Copyright in works published before 21st January, 1958, i.e., before the Copyright Act, 1957 came in force, can also be registered, provided the works still enjoy copyright. Three copies of published work may be sent along with the application. If the work to be registered is unpublished, a copy of the manuscript has to be sent along with the application for affixing the stamp of the Copyright Office in proof of the work having been registered. In case two copies of the manuscript are sent, one copy of the same duly stamped will be returned, while the other will be retained, as far as possible, in the Copyright Office for record and will

be kept confidential. It would also be open to the applicant to send only extracts from the unpublished work instead of the whole manuscript and ask for the return of the extracts after being stamped with the seal of the Copyright Office. When a work has been registered as unpublished and subsequently it is published, the applicant may apply for changes in particulars entered in the Register of Copyright in Form V with prescribed fee. The process of registration and fee for registration of copyright is same. For further details please access following link.

4. Whether computer Software or Computer Programme can be registered?(Under the Copyright Act 1957)

Yes, Computer Software or programme can be registered as a 'literary work'. As per Section 2 (o) of the Copyright Act, 1957 "literary work" includes computer programmes, tables and compilations, including computer databases. 'Source Code' has also to be supplied along with the application for registration of copyright for software products. For further details please access following link.

5. Is an opportunity for hearing given in all the cases pertaining to rejection of registration?(Under the Copyright Act 1957)

Yes. As per the Principles of Natural Justice' (i.e. audi altram paltram) no one can be punished without being heard. As per the rule 27 of the Copyright Rules, 1958 no application is rejected without giving an opportunity to be heard. The applicant himself or his/her pleader may appear in the hearing. As per section 72 of the Copyright Act, 1957 any person aggrieved by the final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the IPAB – Intellectual Property Appellate Board. For further details please access following link.

6. What are the guidelines regarding registration of a work under the Copyright Act 1957?

Chapter XIII of the Copyright Rules, 2013, as amended, sets out the procedure for the registration of a work. Copies of the Act and Rules can be obtained from the Manager of Publications, Publication Branch, Civil Lines, Delhi or his authorized dealers on payment or download from the Copyright Office web-site, link.

7. Can I myself file an application for registration of copyright of a work directly?(Under the Copyright Act 1957)

Yes. Any individual who is an author or rights owner or assignee or legal heir can file application for copyright of a work either at the copyright office or by post or by e-filing facility from the copyright Office web-site, link.

8. What is the fee for registration of a work under the Copyright Act, 1957?

Please go to the link fee details on the Home Page for details. One can pay fee in favour of 'Registrar of Copyrights' payable at 'New Delhi'. The fee 'Fee Details' is not reimbursable in case of rejection of the application. For further details please access following link.

9. Where I can file application for registration of copyright for a work?(Under the Copyright Act 1957)

The Copyright Office has been set up to provide registration facilities to all types of works and is headed by a Registrar of Copyrights and is located at 4th Floor Jeevan Deep Building , New Delhi-110 001. The applications for registration of works can be filled at the counter provided at the Copyright Office from 2.30 P.M. to 4.30. P.M. from Monday to Friday. The applications are also accepted by post. On-line registration through "E-filing facility " has been provided from 14th February 2014, which facilitates the applicants to file applications at the time and place chosen by them. For further details please access following link.

10. What is the procedure for registration of a work under the Copyright Act, 1957?

The procedure for registration is as follows: a) Application for registration is to be made on Form IV (Including Statement of Particulars and Statement of Further Particulars) as prescribed in the first schedule to the Rules. b) Separate applications should be made for registration of each work. c) Each application should be accompanied by the requisite fee prescribed in the second schedule to the Rules. d) The applications should be signed by the applicant or the advocate in whose favour a Vakalatnama or Power of Attorney has been executed. The Power of Attorney signed by the party and accepted by the advocate should also be enclosed. e) The fee is either in the form of Demand Draft, Indian Postal Order favouring 'Registrar Of Copyright Payable At New Delhi' or through Epayment Each and every column of the Statement of Particulars and Statement of Further Particulars should be replied specifically. For further details please access following link.

11. Is it necessary to register a work to claim copyright?(Under the Copyright Act 1957)

No. Acquisition of copyright is automatic and it does not require any formality. Copyright comes into existence as soon as a work is created and no formality is required to be completed for acquiring copyright. However, certificate of registration of copyright and the entries made therein serve as prima facie evidence in a court of law with reference to dispute relating to ownership of copyright. For further details please access following link.

12. What is the scope of protection in the Copyright Act, 1957?

The Copyright Act, 1957 protects original literary, dramatic, musical and artistic works and cinematograph films and sound recordings from unauthorized uses. Unlike the case with patents, copyright protects the expressions and not the ideas. There is no copyright protection for ideas, procedures, methods of operation or mathematical concepts as such (Please see Article 9.2. of TRIPS). For further details please access following link.

13. What is copyright?(Under the Copyright Act 1957)

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. There could be slight variations in the composition of the rights depending on the work. Copyright ensures certain minimum safeguards of the rights of authors over their creations, thereby protecting and rewarding creativity. Creativity being the keystone of progress, no civilized society can afford to ignore the basic requirement of encouraging the same. Economic and social development of a society is dependent on creativity. The protection provided by copyright to the efforts of writers, artists, designers, dramatists, musicians, architects and producers of sound recordings, cinematograph films and computer software, creates an atmosphere conducive to creativity, which induces them to create more and motivates others to create. For further details please access following link.

14. Does copyright apply to titles and names?(Under the Copyright Act 1957)

Copyright does not ordinarily protect titles by themselves or names, short word combinations, slogans, short phrases, methods, plots or factual information. Copyright does not protect ideas or concepts. To get the protection of copyright a work must be original. For further details please access following link.

15. What is meant by Intellectual Property?

Intellectual Property is the Property, which has been created by exercise of Intellectual Faculty. It is the result of persons Intellectual Activities. Thus Intellectual Property refers to creation of mind such as inventions, designs for industrial articles, literary, artistic work, symbols which are ultimately used in commerce. Intellectual Property rights allow the creators or owners to have the benefits from their works when these are exploited commercially. These rights are statutory rights governed in accordance with the provisions of corresponding legislations. Intellectual Property rights reward creativity & human endeavour which fuel the progress of humankind. The intellectual property is classified into seven categories i.e. 1) Patent. 2) Industrial Design. 3) Trade Mark. 4) Copyright. For further details please access following link.

