

COPYRIGHT

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WHAT IS COPYRIGHT

“Copyright” is a form of intellectual property protection granted to the creators of original works of authorship such as literary works (including computer programmes, tables and compilations), dramatic, musical and artistic works, cinematographic films and sound recordings.

Shop and Establishment Act is one of the most important State Government regulations which governs the functioning of businesses engaged within its Jurisdiction.

The Shop and Establishment license is a primary proof of existence of business in a specified jurisdiction. Different types of work covered under copyright.

- Dramatic and musical work (i.e. Drama, Skit, Play, Movie etc.)
- Artistic work (i.e. Logo, monogram, design etc.)
- Software / Computer Programme
- Work of Architecture
- Cinematograph Film
- Sound Recording (i.e. A Cassette or a Record)
- Web site, Web Contents, Home Page.

WHY COPYRIGHT REGISTRATION IS ESSENTIAL?

Copyright registration of the work is highly recommended; as registration is helpful in an infringement suit. As per the Copyright Act, the Register of copyrights (where the details of the work are entered on registration) is prima facie evidence in all courts.

WHO OWNS COPYRIGHT IN A WORK?

In India, the first owner of copyright in a work is the author. If the work is done in course of employment then employee is the first owner, unless there is an agreement to the contrary. Where the work includes material from different owners, or for example is a translation of an original work, several owners may each have copyright in the final work. No objection certificate or relevant transfer documents to be obtained from the employees or appointed designers.

RIGHT OF COPYRIGHT OWNER

- 1 Your logo, style, font, get-up, color, scheme of your brand name cannot be copied by any other business firm.
- 2 The registration certificate is valid for lifetime of the Proprietor of the brand name.
- 3 If the Copyrighted work is infringed it is a cognizable offence i.e. one can directly file a police complaint to stop the misuse of the work.
- 4 If the Copyright Registration is done, the complaint / civil suit can be filed at the place where the owner of the Copyright is situated.
 For Example: if you are situated at Mumbai and some other person is copying your brand name at, say New Delhi. You can file a case at Mumbai. The person who has infringed your brand name will have to appear at the court at Mumbai.
- 5 To reproduce the work in any material form including the storing of it in any medium including electronic means.
- 6 To perform the work in public, or communicate it to the public.
- 7 To make any cinematograph film or sound recording in respect of the work.
- 8 To make any translation of the work.
- 9 In case of computer programme the rights also includes to sell or give on hire, any copy of the computer programme

HOW TO PUBLICIZE MY CLAIM TO COPYRIGHT?

All copyright work should be marked with the International Copyright symbol ©, “All rights reserved” or with the word Copyright, the name of the owner and the date or year the work was created, thus: © MS LEGAL 2014. “All rights reserved”

TERM OF REGISTRATION

The term of copyright varies according to the nature of work and whether the author is a natural or legal person (e.g.: Company).

- In the case of literary, dramatic, musical or artistic work (other than a photograph), when published during the lifetime of the author, copyright subsists during the lifetime of the author, plus sixty years.
- In the case of photographs, cinematograph films and sounds recordings; the term is sixty years from the date of publication.
- When the first owner of copyright is the government or a public undertaking, the term of copyright is sixty years from the date of publication.

THE REMEDIES AVAILABLE TO THE OWNER FOR COPYRIGHT INFRINGEMENT

Courts are empowered to grant the following relief in case of infringement of copyright:

- Temporary and permanent injunction (Prohibition to continue the act of infringement).
- Impounding and destruction of all infringing copies.
- Actual monetary damages plus the infringer’s profits.
- Statutory Costs – Court charges and reasonable attorneys’s fees.
- The Court trying any offence, under the Copyright Act may, whether the alleged offender is convicted or not, order that all copies of the work in the possession of the alleged offender, which appear to be infringing copies be delivered up to the owner of copyright.
- In addition to civil remedy, the Copyright Act enables the owner of a copyright to take criminal proceedings against the infringer.
- The offence of infringement of copyright is punishable with imprisonment which may extend from a minimum period of six months to a maximum period of three years and a fine of Rs 50,000 to Rs 2 lakh.

STEPS FOR REGISTRATION

Procedure for Registration of Copyright (Service Industries):

- 1 To apply for search to ascertain, whether any work is on record which is similar to your artistic work.
- 2 If the search is positive, procuring the required documents for application.
- 3 Preparation of Power of Attorney on stamp paper.
- 4 Application for Registration and along with copies of the work.
- 5 Attending to the proceedings and obtaining Provisional Papers after necessary follow up.

Procedure for Registration of Copyright (Other than Service Industries):

Prior application for Trademark Registration is mandatory for Copyright Registration
 To apply for search to ascertain, whether any work is on record which is similar to your artistic work.
 If the search is positive, procuring the required documents for application.
 Preparation of Power of Attorney on stamp paper.
 Preparation of Power of Attorney on stamp paper.

COPYRIGHT REQUEST FORM

PLEASE FILL IN THE BELOW INFORMATION AND EMAIL US TO PROCESS YOUR APPLICATION.

	Particulars	Details
1	Title of the Copyright	
2	Applicant Name (Company/Firm/Trust/Individual)	
3	Address of the applicant	
4	Type of Organisation	
5	Name(s) of Proprietor /All Partners /All Directors /All Trustees	
6	Nature of material required to be registered Artistic work / Logo / Punch line/ Computer Software / Literally material /Cinematograph Film / Musical Work/ Web site, Web Contents	
7	Providing the above in the form of	Compact Disc (CD) / Video Cassette / Printout
8	Names, Residential addresses & Designation of all persons involved in development / writing of the above/author	
9	Language of the work	
10	Date, Month & Year of Publication in India	
11	Place, where the artistic work will be used	
12	Work is Published or Unpublished	
13	Contact No.	
14	E Mail Id.	

CONTACT US



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