

Copyright Societies: With Emphasis on IPRS and PPL

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Abstract

Copyright is a 'negative right' - a monopoly granted to an author/creator as a reward for his/her creation of an artistic, literary, musical, dramatic work, cinematographic film, or sound recording. The right to prohibit others from using his/her copyrighted work is conferred upon the owner. It also offers an incentive for future creation. This right is highly prized by all civilized nations to such a degree that it is protected by both national laws as well as international conventions. In the interests of copyright owners, copyright societies are formulated to establish a collective administration organization to ensure better protection to the copyright in their works and for reaping optimum economic benefits from their creations. The Copyright Act was amended in 2012 incorporating a series of changes, streamlining the functioning and regulation of Copyright Societies. The 2012 amendments also granted a right to royalty in favor of the authors and owners of copyright. They also stipulated previously registered copyright societies to re-register themselves And Furnish Full Accounts before The Copyright Board.

Introduction

Intellectual Property is the creative work of the human intellect. And, the right to intellectual property is an invisible/intangible right to a product of man's brain, such as a new invented product, that is property of mind. An intellectual property is at times described as 'knowledge goods'.³ Intellectual property can be divided into two broad categories namely industrial property and literary property. It is the later branch which is governed within the protection and ambit of copyright and related rights/laws.

Creators of literary, dramatic, musical and a variety of other works are protected under Copyright Laws. With evolution of copyright law regime, copyright societies have evolved to administer and manage collectively the protection rights of authors and other owners

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³ Bayer Corporation v. Union of India, Writ Petition NO.1323 of 2013 decided by Bombay High Court on 15-07-14

over their original work. Since, no authors and other owner of copyright in any work can keep track of all the uses others make of his work. When he becomes a member of a national copyright society, that society, because of its organizational facilities and strength, is able to keep a better vigil over the uses made of that work throughout the country and collect due royalties from the users of those works. Therefore, it is in the interests of copyright owners to join a collective administration organization to ensure better protection to the copyright in their works and for reaping optimum economic benefits from their creations.

Objective of Research

Copyright law in India has various aspects and provisions involving effective and correct interpretation. The copyright act is a substantial law and prescribes penalties for infringement of copyright. After Constitution of India came into force and along with the new developments and technological advancements the independent law on subject of copyright grew. With growth of public conscience of the rights, the copyright law took a shape of statute mandating the protection of creative works and arts, thereby providing motivation and incentives to the original owner of the work.

This research paper tries to analysis various aspects of copyright law- meaning and nature, historical background, need, objective, subject matter and requirements to claim copyright in Part 3. Part 4 deals with copyright societies as a concept and analysis with regard to various jurisdictions is given in Part 5. Part 6 and 7 deals with copyright societies in India, along with this there is special focus on impact of copyright amendment act, 2012 on PPL and IPRS

Copyright Law

Meaning and Nature

Copyright is right given by the legal framework to creators of literary, dramatic, musical and artistic works along with the producers of cinematograph films and sound recording. By protecting and rewarding creativity, copyright ensures certain safeguards in the form of bundle of rights i.e. right of reproduction, communication to the public, adaptation and translation of any work. The term “copyright” is defined under section 14 of the Indian Copyright Act, 1957 (hereinafter referred to as “Copyright Act”). The general connotation of the term copyright refers to the “right to copy” which is available only to the author or the

creator, as the case may be. Thus, any other person who copies the original work would be amount to infringement under the Copyright Act.

Historical Background

The idea to give copyright protection early begin at emerge with the intention of printing which made it possible for the literary work to be duplicated by mechanical process. Hence it is the invention of printing press in 1436 in Germany which contributed in the origination of copyright law.

The art of printing spread quickly in Europe and other countries in 1483. King Richard III allowed foreigners to import manuscripts and books and their enabled England to emerge as a major trading centre of books.

First Act was enacted in England “*Act of Queen Anne, 1709*” was passed which has 3 major features-

1. Exclusive Right for 14 years
2. It also introduced punishments in the form of fine (1 penne for 1 page- when anybody infringe the right of copyright owner)
3. No suit can be filed unless, the title of book enter into the copyright register.

In India, the earliest statute law on copyright was Indian Copyright Act, 1947 was enacted during the regime of East Indian Company. In 1911, the Copyright Act was adopted which substantially codified the law and repealed some 20 legislations on the subject.

This Copyright Act, 1911 was made applicable to all British colonies including India. Later on this Act, was further amended by 1914 for adopting certain new provisions to make it applicable in India.

This 1914 Act was further repealed by Copyright Act, 1957 which came into force on 21st January 1958. The Copyright Act, 1957 was further amended in 1983, 1984, 1992, 1994, 1999 and latest by 2012.

India is signatory to following international convention – Berne Convention 1886 (first international convention); Rome, UCT, WIPO and TRIPS.

Need and Objective

Copyright does not protect the idea, per se. But if it is made into a tangible thing, like a script, or an email, the expression or documentation can prove the date of origin and the owner. The objective of copyright law is to protect such rights of the owner. Need arises to protect the originality and promote the innovation simultaneously giving reward and incentive to the original owner. Object of, held, is to protect the author of the copyright work from an unlawful reproduction or exploitation of his work by others.⁴

It creates a public record of the ownership by copyright holder as it enables the holder of the copyright to take legal action against infringers in a court.

Copyright protection provides a very important motivation for the creation of several intellectual works. Devoid of copyright protection, it would be simple for others to take advantage of these works without paying any royalties or remuneration to the title-holder of the work. Copyright therefore encourages enterprise and enables an encouraging climate to motivate economic activity.

Copyright protection renders benefits in the form of economic rights which entitles the creators to exercise control over use of their literary and artistic material in various ways such as producing copies, performing in public, broadcasting, use on-line/on the internet, etc. and to avail an appropriate economic reward.

Copyright protection enables creators to consequently be rewarded for their originality and venture.

Copyright also enables moral rights to be identified as the creator or the author of definite kinds of material (known as the paternity right, and raise objection to the distortion and mutilation of the right. An author's right to object to the adaptation or derogatory action in relation to his or her work is referred to as an integrity right.

Subject Matters

Section 13 of the Copyright Act enumerates the class of works in which copyright subsists. According to Section 13(1) of the Act, copyright subsists in the following works:

⁴ Eastern Book Company & Ors vs D.B. Modak & Anr

1. Original Literary, dramatic, musical and artistic works;
2. Cinematography films
3. Sound recordings

Section 13(a) of the act protects original work, whereas Section 13(b) and 13(c) protect derivative works. It provides for commercial manifestation of original work and the fields specified therein.

Section 13(2) of the Act further provides the conditions as to when copyright is acquired in the case of a “published” and an “unpublished” work.

Section 13(3) also enlists the class of works wherein copyright does not subsist. Further, copyright protection is not granted where the work is grossly immoral, illegal, defamatory, blasphemous, seditious, irreligious or contrary to public policy or calculated to deceive the public.

Requirement to Claim Copyright

1. Fixation

There is no copyright for ideas. The ideas must be fixed in some tangible medium of expression. Copyright protection is automatic, although there are benefits (not covered here) to officially registering your work with the Copyright Office.

Copyright protection can be immediate effected, as soon as the expression or idea is fixed in tangible form. That is, it applies to drafts and completed works, both published and unpublished.

2. Originality

A fixed expression of ideas is protected by copyright if and only if it is original. No copied matter can be claimed under Copyrights Act. Neither quality nor uniqueness is required as an essential element for the same. For instance, even bad work is subject to copyright protection. Works that are similar, but independently created, are individually subject to copyright protection.

3. Minimal Creativity

Hard work is *not* enough to gain copyright protection, cannot be the sole criteria to cover

the work under the protection of copyright law. At least *minimal* creativity is also required.

For Example:

A mere list of parts for a child's toy or another kind of non-creative list is probably not subject to copyright. A sheet of instructions for assembling a toy from its parts may be subject to copyright.

A categorized yellow pages directory may be subject to copyright. A web-site that provides the means for searching a white pages database may be subject to copyright.

In *Feist Publ'ns, Inc. v. Rural Telephone Service Co., Inc.*,⁵ A work that originates from the author and contains any level of creative expression will satisfy the originality requirement. In this case, the Supreme Court held that listing names alphabetically in a phone book is not creative; almost anything more creative than that probably qualifies. Sometimes, a creative work will have both original and unoriginal elements. In that case, the owner of the copyright to the work may assert rights over the original elements, but not the unoriginal elements.⁶

Remedies and Penalties Regarding Infringement of Copyright

Civil remedies for the infringement of copyrights⁷ are given under Section 55 of Copyright Act, 1957. The said provision empowers and authorizes owners of a copyright to remedies by the way of injunction/damages or otherwise as maybe conferred on infringement of copyright.

Section 63 makes it an offence for any person who knowingly infringes:

1. The copyright in a work;
2. Any other right conferred by the Act.

The offence of infringement of copyright is punishable with imprisonment and fine. Imprisonment shall be for a term not less than six months but may extend to three years. The fine shall not be less than Rs. 50,000/- but may be extended to Rs. 2 lakhs.

⁵ 499 U.S. 340, 345 (1991)

⁶ Copyrightable Subject Matter, Digital Media Law Project, Legal Resources for Digital Media.

⁷ Section 51, The Copyright Act, 1957.

Copyright Societies

Copyright Society is a legal body which protects or safeguards the interest of owners of the work in which copyright subsist. The Copyright Societies gives assurance to the creative authors of the commercial management of their works.

The Copyright societies are also authorized to watch out for infringement of the copyright and take appropriate legal action against the infringers.

Functions of Copyright Societies:

1. The copyright in the work for reproduction, performance or communication to public is granted through licensing.
2. Collect fees in pursuance of such licenses.
3. It locates the infringement of the Copyright and initiates legal proceedings.
4. It helps owners with regular, full and detailed information regarding all the activities in relation to the administration of their rights.
5. It helps in enforcing copyright with the benefits both to the copyright owner and to general public.

Copyright Societies under Various Jurisdictions

In this chapter we will be taking up examples of Copyright Societies existing in various jurisdictions having developed copyright law regime. These examples depict how copyright societies have evolved, function and serve the objectives for which they are established. The common string which is common in all the copyright societies of different jurisdictions is the intention to protect rights along with monitoring and reviewing the relevant laws.

United States of America

The Recording Industry Association of America (or RIAA)

The Recording Industry Association of America® (RIAA) is the trade organization that supports and promotes the creative and financial vitality of the major music companies. Its members comprise the most vibrant record industry in the world, investing in great artists to help them reach their potential and connect to their fans. Nearly 85% of all legitimate recorded music produced and sold in the United States is created, manufactured or

distributed by RIAA members.

In support of this mission, the RIAA works to protect the intellectual property and First Amendment rights of artists and music labels; conduct consumer, industry and technical research; and monitor and review state and federal laws, regulations and policies. RIAA also certifies Gold[®], Platinum[®], Multi-Platinum[™], Diamond and Los Premios De Oro y Platino[™] sales and streaming awards.⁸

The RIAA also participates in the collection, administration and distribution of music licenses and royalties. The RIAA's goals are:⁹

1. To protect intellectual property rights worldwide and the First Amendment rights of artists;
2. To perform research about the music industry;
3. To monitor and review relevant laws, regulations and policies.

United Kingdom

Performing Right Society (PRS)

They pay royalties to the members when their work is performed, broadcast, streamed, downloaded, reproduced, played in public or used in film and TV. They support them by influencing policy, supporting and hosting awards and events, and investing in new technology to ensure they're fit for the digital music age. With the mission: Fair value for our members' copyrights and vision: To be the leading music rights organization in the world.

Australia

AMCOS

⁸ Recording Industry Association of America, RIAA, United States Of America, <https://www.riaa.com/about-riaa/>

⁹ Pradnya, Copyright Societies, LEGAL SERVICES INDIA, <http://www.legalservicesindia.com/article/417/Copyright-Societies.html>

Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society work in collaboration. *“We're here for the music. We help music creators get paid for their work and give music users easy ways to legally play and copy what they like. Royalties keep the music coming and ensure the industry's future. And that's what we all want to hear.”*¹⁰

APRA administers rights of public performance and communication to the public of music and lyrics for composers, music publishers and other copyright owners. They provide license for live and recorded music and lyrics to be performed publicly, for example in pubs, clubs, restaurants and shops, and also licenses radio and T.V stations, web casters and organizations playing music on hold. APRA can also assist in identifying and finding owners of copyright in music and lyrics.

AMCOS administers and distributes royalties collected for 'mechanical' and 'reproduction' rights in musical works on behalf of its members, namely composers, writers and music publishers. Mechanical rights refer to when the musical work is reproduced in mechanical form, e.g. sound recording.

Japan

Recording Industry Association of Japan (RIAJ)

The Recording Industry Association of Japan (RIAJ) was founded in 1942 as an organization representing Japanese music recording industry. Since that time, RIAJ has been playing a leading role in the development and expansion of Japanese music culture.¹¹

Achieving its mission to encourage the growth and improvement of Japanese music culture, RIAJ is active in operations to promote recordings and create new demand; to enhance protection of copyright and neighboring rights; to ensure proper use of recordings; to conduct surveys, gather documentary information, and publish materials concerning records and the recording

Industry; and other activities aimed at maintaining the strength and integrity of the industry at the same time, as a designated society of the Agency for Cultural Affairs, RIAJ is responsible for collection and distribution of secondary use fees of commercial recordings

¹⁰ Apra Aamcos, © 2019 APRA AMCOS, <http://apraamcos.com.au/browser>

¹¹ RIAJ, <https://www.riaj.or.jp/e>

from broadcasters, and remuneration from CD rental shops.

Copyright Societies in India

The collective management of copyright which serves the interest of not only the owners of copyright but also the users of works and public at large. Copyright Societies play a vital role in this collective management. Performing right societies which used to govern the business of issuing or granting licenses for the performance in India of any work existed in the Copyright Act prior to 1994 amendment. With the introduction of 1994 amendment,¹² the legal provisions relating to the above mentioned business of issuing licenses in respect of all rights related to any class of work were widened and operation of these were extended.

Copyright societies in the interest of authors and copyright owners are governed by general provisions provided under Chapter VII of Copyright Act which deals with registration and management of these societies. Also under Chapter V of Copyright Rules, 1958 very detailed procedures have been laid down to regulate the working of copyright societies.

Section 2(ffd) of the Copyright Act defines “Copyright Society” as:

“Copyright Society” means a society registered under sub-section(3) of Section 33.”

In general meaning it can be said Copyright Society is registered collective administration society under Section 33 of the Copyright Act. Because of the country’s membership in international conventions, the copyright societies are able to have reciprocal agreements with similar societies in other countries for collecting royalties for the uses of Indian works in those countries.

Registration of Copyright Society

Section 33(1) of the Copyright Act¹³ makes it mandatory for any person or association of persons to get it registered with the Central Government to carry on the business of issuing or granting licenses in respect of any working which copyright subsists or in respect of any other rights conferred by the act.

¹² Copyright (Amendment) Act, 1994 (38 of 1994)

¹³ Section 33, Copyright Act 1957

Section 33(3) of the Copyright Act takes into account the factors that are to be considered by Central Government before registration of any association of persons as copyright society.

1. The interest of the authors and other owners or rights under the Act;
2. The interest and convenience of the public, particularly of the groups of persons who are most likely to seek licenses in respect of the relevant rights; and
3. The ability and professional competence of the applicants.

Moreover the Central Government cannot register more than one copyright society in respect of a class of works. Also, ordinarily one copyright society shall be registered to do business in respect of same class of business.¹⁴

Membership of every copyright society is to be opened to all the authors and other owners of a right or set of rights in specific categories of works for which it is registered.¹⁵

The act also provides for renewal of registration after 2012 amendment¹⁶ by which a new sub- section (3A) in Section 33 was incorporated. It provides registration to a copyright society for 5 years which can be renewed from time to time on a request in the prescribed form. After considering the report of Registrar of Copyrights on the working of the copyright society, the Central Government may renew the registration under Section 36.

Some copyright societies registered under the act are-

1. Musical Works:

Indian Performing Right Society Limited (IPRS) - The IPRS is a representative body of Owners of Music, viz. The Composers, Lyricists (or Authors) and the Publishers of Music and is also the sole Authorized Body to issue Licenses permitting usage of Music within India by any person.¹⁷

2. Sound Recordings:

Phonographic Performances Limited (PPL) – The PPL owns, as assignee, and exclusively

¹⁴ Proviso to Section 33(3), Copyright Act 1957

¹⁵ Rule 45 of the Copyright Rules, 2013

¹⁶ Copyright (Amendment) Act, 2012

¹⁷ The Indian Performing Right Society Limited, <http://www.iprs.org/cms/>.

controls public performance rights and radio broadcasting rights in more than 20 lakh International and Indian songs (sound recordings) covering English, Spanish, Hindi, Telugu, Tamil, Bengali, Punjabi, Marathi, Malayalam, Bhojpuri and other International and Indian languages, including both film and non-film songs in various genres such as Dance, Pop, Rock, EDM, Reggae, Jazz, Classical, Devotional, Folk, etc, of its more than 300 members, who are music labels.¹⁸

3. Books/literature/artistic photocopy rights:

The Indian Reprographic Rights Organization (IRRO) - The IRRO is a Copyright Society in the field of published literary works incorporated in the year 2000. It represents the rights owners of the literary works namely, authors and publishers and provides licenses to the users on their behalf. IRRO issues / grant licenses which covers books, newspapers, magazines, journals and other periodical publications in electronic and paper format for Reprography for the limited period of 1 year as per law.

4. Singers (Performers) Rights:

Indian Singers Rights Association (ISRA) - M/s. LataMangeshkar, Usha Mangeshkar, Suresh Wadkar, Gurdaas Mann, Pankaj Udhas, AlkaYagnik, Kumar Sanu, Abhijeet Bhattacharya, Sonu Nigam & Sanjay Tandon with support from M/s. Asha Bhosle, Shaan, Kunal Ganjawala, Sunidhi Chauhan, MahalaxmiIyer and others formed the ISRA. Now ISRA is infact the 1st Copyright Society to be registered by the Central Government after the 2012 amendments to the Copyright Act.¹⁹

5. Cinematograph Films:

Society for Copyright Regulation of Indian Producers of Films and Television (SCRIPT)

Functions of Copyright Society

Under Section 35,²⁰ Copyright Society performs the following functions:

1. to obtain the approval of such owners of right for its procedures of collection and

¹⁸ Pay & Play, © Phonographic Performance Limited, <https://pplindia.org/what-is-ppl/>

¹⁹ ISRA, http://isracopyright.com/about_isra.php.

²⁰ Section 35, Copyright Act 1957

distribution of fees;

2. to obtain their approval for the utilization of any amounts collected as fees for any purpose other than distribution to the owners of rights; and
3. to provide to such owners regular, full and detailed information concerning all its activities, in relation to the administration of their rights.

Cancellation or Suspension of Registration of Copyright Societies

After the prescribed enquiry if the Central Government is satisfied that the society is being managed in a manner detrimental to the interest of the owners of copyright, it may cancel the registration of such society.

1. Suspension of Registration:

Under Rule 14 D of the Copyright Rules, 1958, the Central Government may suspend the registration of the Society and appoint an administrator. According to Rule 14 E administrator has powers to administer the Copyright Society.

2. Cancellation of registration:

Rule 14 F of the Copyright Rules, 1958, the registration of the Copyright Society as such may be cancelled by the Central Government

- i. If any of the particulars furnished in the application for registration is found to be false.
- ii. Or if the society is being in a manner detrimental to the interests of the owners of rights concerned.
- iii. Or if it fails to maintain its accounts and get them audited persistently.
- iv. Or it utilizes its fund for purposes other than the copyright.

The registration may also be cancelled if the society has not complied with:

1. Section 33A of the Act²¹ regarding the publication of tariff scheme by the copyright society;

²¹ Section 33A, Copyright Act 1957

2. Section 35(3) of the Act regarding equal representation of authors and other owners of rights in the Governing Council of copyright society;
3. Section 36 of the Act regarding submission of returns and reports to the Registrar of Copyrights by copyright society;
4. The procedure for obtaining approval of authors and other owners for right collection and distribution of royalty.

Powers of Copyright Societies

According to Section 34 (1),²²

- (a) A Copyright Society may accept from an owner of the rights exclusive authorization to administer any right in any work by issue of licenses or collection of license fees or both.
- (b) The owner of rights has the right to withdraw such authorization without prejudice to the rights of the Copyright Society under any contract, subject to certain conditions prescribed.

The Copyright Society may also enter into any agreement with any foreign society or organization administering rights corresponding to rights under the Act to entrust to such Society or organization the administration in any foreign country of rights administered by the said Copyright Society in India and vice versa. This is subject to the condition that there is no discrimination in regard to the terms of licenses or the distribution of fees collected between rights in Indian and foreign works.

Subject to such conditions as may be prescribed, a copyright society may—

1. issue licenses under section 30 in respect of any rights under this Act;
2. collect fees in pursuance of such licenses;
3. distribute such fees among [author and other owners of right] after making deductions for its own expenses;

²² Section 34, Copyright Act 1957

4. perform any other functions consistent with the provisions of section 35.²³

Records to be Maintained by Copyright Societies

Every copyright society shall maintain the following registers at its registered or administrative office—

1. a register of authors and other owners to be called the “Register of Authors and Other Owners” in respect of right or set of rights in the specific categories of works for which the copyright society has been authorized to issue or grant licenses;
2. a register to be called the “Register of Agreements” containing a copy of every agreement entered into by the copyright society with the authors and other owners for the purpose;
3. a register to be called the “Register of Royalties” containing particulars of royalties and mentioning the names of persons or organizations and copy of the license agreements from whom the royalties have been realized, and the amount so realized including the date of realization;
4. a register to be called the “Disbursement Register” containing details of disbursement of royalties made to each author or other owner of right or set of rights in the specific categories of works, category-wise, mentioning the name of the author or other owner, nature of his right and the date and amount of disbursement of royalty made to him.

Tariff Scheme by Copyright Societies

Section 33A introduced in Copyright (Amendment) Act, 2012 provides with the provisions regarding Tariff Scheme. Every copyright society shall frame and publish a Tariff Scheme in manner as maybe be prescribed.

It helps to set out the nature and quantum of fees or royalties which it purposes to collect in respect of such copyright or other rights administered by it within three months from the date on which it has become entitled to commence its copyright business.

²³ Section 34(3), Copyright Act, 1957

Impact of Copyright Amendment Act, 2012 on PPL and IPRS

The Copyright Act was amended in 2012 incorporating a series of changes; streamlining the functioning and regulation of Copyright Societies. The 2012 amendments make Indian Copyright Law compliant with the Internet Treaties – the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT).²⁴

The 2012 amendments also granted a right to royalty in favor of the authors and owners of copyright. They also stipulated previously registered copyright societies to re-register themselves and furnish full accounts before the copyright board on or before June 21, 2013.

Indian Performing Right Society (IPRS)

The IPRS is a representative body of Owners of Music, viz. The Composers, Lyricists (or Authors) and the Publishers of Music and is also the sole Authorized Body to issue Licenses permitting usage of Music within India by any person. The business of IPRS is to issue Licenses to users of music and collect Royalties from them, for and on behalf of its Members i.e. the Authors, the Composers and the Publishers of Music and distribute this Royalty amongst them after deducting its administrative costs.

Composers are those who are better known as Music Directors, Authors are better known as Lyricists, Publishers of Music are the Producers of Films and Music Companies, or those who hold Publishing Rights of the Musical Works.

It came into existence in 1969. It is a non-profit making organization and is a company limited by guarantee and registered under the Companies Act, 1956. After the Copyright (Amendment) Act, 1994 which came into effect in 1995, IPRS got registered under Section 33 of the Copyright Act as a Copyright Society to do the business of issuing licenses for usage of musical works and accompanying literary works.

²⁴ Abhai Pandey, Development In Indian IP Law: The Copyright (Amendment) Act 2012, INTELLECTUAL PROPERTY WATCH, <http://www.ip-watch.org/2013/01/22/development-in-indian-ip-law-the-copyright-amendment-act-2012/>

Phonographic Performance Limited (PPL)

The Indian Phonographic Industry (IPI), the Association of Phonogram Producers, was established in 1936, and it was instrumental in finalizing the Broadcasting License arrangement in India. Subsequently, IPI members decided to form a specialized body to administer their Public Performance and Broadcasting Rights, and so PPL came into being in 1941.

The Phonographic Performance Ltd. (PPL) owns, as assignee, and exclusively controls public performance rights and radio broadcasting rights in more than 20 lakh International and Indian songs (sound recordings) covering English, Spanish, Hindi, Telugu, Tamil, Bengali, Punjabi, Marathi, Malayalam, Bhojpuri and other International and Indian languages, including both film and non-film songs in various genres such as Dance, Pop, Rock, EDM, Reggae, Jazz, Classical, Devotional, Folk, etc, of its more than 300 members, who are music labels.

All licenses granted and issued by PPL are non-exclusive, conditional and for limited purpose and period. There is no transfer of effective title, control, possession or custody or 'right to use' of copyrights, which vests solely with the owner.²⁵

*M/s Entertainment Network (India) Ltd. Vs M/s Super Cassette Industries Ltd.*²⁶ this case involved challenging issues pertaining to the “scope” of compulsory licensing (CL) of sound recordings under Indian law.

The case had its origins in complaints filed by several radio operators under Section 31 (1) (b) of the Copyright Act, 1957, before the Copyright Board praying for a compulsory license in relation to the “sound recordings” held by Phonographic Performance Ltd (PPL) as they were unable to negotiate a rate with PPL.

PPL is one of the two collecting societies in India (the other is IPRS: Indian Performing Rights Society, which is mainly a collecting society for underlying works in sound recordings).

²⁵ Gaurav Dhawaj, Arjun Uppal, Copyright Society Under The Copyright Act, 1957, MONDAQ, <http://www.mondaq.com/india/x/463106/Copyright/Copyright%2BSociety%2BUnder%2BThe%2BCopyright%2BAct%2B1957>.

²⁶ 16 May, 2008

It was argued by PPL that a compulsory license could issue only if the “work” had never been made available to the public earlier. The radio stations took a stand for an almost automatic CL ground i.e. it was to be granted upon request and the only point for consideration was a determination of “reasonable royalty” which was finally observed by the court.

Impact

IPRS and PPL applied for registration. Thereafter, on account of the several alleged irregularities in the functioning of both, IPRS and PPL, the Ministry of Human Resources Development issued show cause notices to the 2 Copyright Societies in August 2012.

IPRS and PPL continued to be embroiled in controversy. Several complaints to the HRD Ministry eventually resulted in the appointment of Justice Mukul Mudgal (Retd.) in 2014 as an enquiry officer to conduct an enquiry into the myriad allegations leveled against IPRS & PPL.

In 2014, IPRS and PPL withdrew their application for re-registration and declared themselves as companies not governed by the provisions contained in Chapter VII of the Copyright Act. Having rescinded from their application for re-registration, IPRS and PPL could no longer operate as Copyright Societies and also the provisions contained in Chapter VII, which contains the relevant provisions governing Copyright Societies, could no longer be applied to them. Both PPL and IPRS have chosen not to re-register as copyright societies but are now conducting business as private limited companies, registered under the Companies Act.

Later, an Inquiry Officer was appointed in October 2015 under Section 33(4) of the Act to inquire into the non-distribution of royalties to authors and composers and suggest measures for

The improvement of the administration of IPRS. However, having rescinded from their re-registration as Copyright Societies, IPRS and PPL have attempted to circumvent these inquiries.²⁷ Pertinently, this withdrawal of re-registration application has not been accepted by the Central Government in view of the larger interest involved of the Society members.

²⁷ Jaya Mandelia, Copyright Societies – The continuing Limbo, LEGAL ERA, <http://www.legaleraonline.com/articles/copyright-societies-the-continuing-limbo>

The Hon'ble Court in the case of *M/s Leopold Café Stores v. Novex Communications Pvt. Ltd.*²⁸ restrained Novex from engaging in the business of issuing/granting licenses and collecting license fees. The Court observed in the order that restrained Novex from issuing any licenses as per Section 33 of the Copyright Act, which prohibits any person or association of persons, with the exception of Copyright societies that are duly registered under the Act, from carrying out business of issuing or granting licenses.

Conclusion

Copyright is recognition to the form of intellectual property manifested in artistic endeavors. The copyright laws have been developed in various jurisdictions around the world with the motive to reward authors for their intellectual effort and promote science, culture and the arts. Copyright societies in the interest of authors and copyright owners are registered and governed by general provisions provided under Chapter VII of Copyright Act. The Copyright Act was amended in 2012 incorporating a series of changes, streamlining the functioning and regulation of Copyright Societies.

²⁸ *Leopold Café Stores v. Novex Communications Pvt. Ltd* 2014(6) BomCR 394