

Introduction

The aim of this booklet is to provide a short introduction to copyright and a reference guide to Indian Reprographic Rights Organisation (IRRO) that represents rightsholders of copyrighted work *i.e.* Authors, Publishers, etc. in the field of literary works. We hope you will find this booklet extremely informative and useful.



About

The Indian Reprographic Rights Organisation (IRRO)



The Indian Reprographic Rights Organisation (IRRO) issues licences on behalf of rightsholders of copyrighted materials for reproduction by photocopying, scanning, etc. of articles and extracts from their works.

This includes magazines, books, journals supplied by a licensed third party. The licences provide a cost effective way to manage the risk associated with using and reproducing copyright materials.



What is Copyright?

Copyright is one of the main types of intellectual property – others include designs, patents and trademarks. Intellectual property allows a person to own things they create in the same way as something physical can be owned. It is the right to prevent others copying or reproducing someone's work.

The main legislation dealing with copyright in India is the Indian Copyright Act of 1957 with amendments upto the year 2010 and the Copyright Rules, 2013.

When does Copyright Arise?



Copyright arises automatically when a work that qualifies for protection is created. The work must be original in that it needs to originate with the author who will have used some judgment or skill to create the work – simply copying a work does not make it original. There is no need to register copyright in India. When an idea is committed to paper or another fixed form, it can be protected by copyright. It is the expression of the idea that is protected and not the idea itself. People cannot be stopped from borrowing an idea or producing something similar but can be

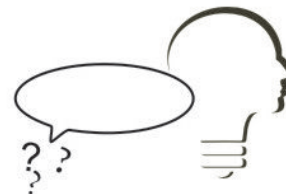
stopped from copying.

What does copyright Protect?



The main categories of works currently protected in India include:

- Original literary works such as novels, poems, etc., computer programmes, tables and compilations including computer databases.
- Original dramatic works such as dance or mime, any piece of recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, the form of which is fixed in writing or otherwise but does not include a cinematograph film.
- Original musical works such as a work consisting of music, including any graphical notation of such work but not including any words or any action intended to be sung, spoken or performed with the music.
- Original artistic works such as graphic works (paintings, drawings etc.), photographs, sculptures and works of architecture, etc.
- Sound recordings.
- Cinematograph films.



Who Owns Copyright?

As a general rule, the owner of the copyright is the person who created it, *i.e.* the author. An author could be the writer, the composer, the artist, the producer or the publisher or another creator depending on the type of work.

One important exception to this is when an employee creates a work in the course of his employment in which case the copyright owner will normally be the employer.

Joint ownership of copyright



Where more than one person is involved in the creation of a work and it is not possible to distinguish exactly what each person contributed, copyright will be owned jointly and no single

contributor can publish or license the work without the consent of the other/s.

What Rights does a Copyright Owner have?

A copyright owner has both economic and moral rights.

Economic rights cover acts that only the copyright owner can do or authorise. These include the right to copy the work, distribute copies of it, rent or lend it, perform or show it, communicate it to the public (including making it available online) or adapt it (e.g. make it into a play).

Moral rights include the right to be identified as the author, the right not to have a work that they did not create falsely attributed to them and the right to object to the derogatory treatment of the work. Moral rights are rights authors retain in their works irrespective of who owns the economic rights – they can be waived, but not licensed or assigned.



How long does Copyright last?

For literary, dramatic, musical or artistic works it is 60 years from the end of the calendar year in which the author dies (if there is more than one author it will be 60 years from the death of the last remaining author)

It is important to note that whilst the underlying work itself might be out of copyright, if a new edition is set and printed or additional text such as an introduction is added, these new elements will attract copyright protection.



Copyright infringement

It is an infringement of copyright to do any of the following acts in relation to a substantial part of a work protected by copyright without the consent or authorisation of the copyright owner:

- copy it.
- issue copies of it to the public.
- rent or lend it to the public.
- perform or show it in public.
- communicate it to the public.



As mentioned above, for infringement to take place, it must involve a substantial part of the work. Whether or not the part to be reproduced is substantial is subjective and the quality, importance or significance of the extract are equally as important (some may say more so) as the quantity of words or lines – using just four lines of a poem or even a four word extract have been found to be substantial. The test is subjective. It is often said that if something is worth copying, it is worth protecting.

Secondary infringement may occur if someone, without the permission of the copyright owner, imports an infringing copy, possesses or deals with it, or provides the means for making it.

Remedies for Copyright Infringement



A copyright owner can seek civil remedies as well as file a criminal complaint for infringement. Civil remedies include seeking injunctions to prohibit further infringement, to deliver all infringing articles to the owner, right to seize such copies, to recover damages for loss from the account of the infringer's profits, etc.

A copyright owner can file a criminal complaint against the infringer. Section 63 of the Copyright Act, 1957 describes the offence and punishment of infringement of copyright. Any person who knowingly infringes or abets the infringement of the copyright in a work or any other right conferred by the Copyright Act shall be

punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

Whoever having already been convicted of an offence under Section 63 is again convicted of any such offence shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to two lakhs rupees.

Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under section 63 in respect of the infringement of copyright in any work has been, is being committed or is likely to be committed may seize without warrant all copies of the work and plates so seized shall be produced before a Magistrate.

Copyright Exceptions



There are a number of specified copyright exceptions in Indian law which permit copying in certain circumstances (for instance for use in judicial proceedings) or for certain categories of people (for instance for those who are visually impaired). More detailed information regarding these exceptions is beyond the scope of this overview but can be found under section 52 of the Copyright Act 1957 or on the Indian Copyright Office's website at www.copyright.gov.in. In these specified exceptions, there exists a group of exemptions which fall within the scope of 'fair dealing'. Material reproduced for the purposes of non-commercial research or private study, for criticism or review or for the reporting of current events is included in this group. If material is reproduced for these purposes, provided it is genuinely and fairly used for the stated purpose, and is accompanied by a sufficient acknowledgement, it may be considered fair dealing and thus exempt from clearance. However, the test is subjective and will

depend on the circumstances of each case.

Obtaining Clearance to use Copyright Material



If the material you wish to reproduce does not fall within one of the exceptions, or if you are unsure, you should contact the copyright owner, or someone authorised by them to grant the necessary permission. For most published works this will be the publisher, contact details for which will be found on the publication itself.

Permission will generally be needed for each and every occasion the material is used. There are no industry-fixed fees – they are at the discretion of the party granting the permission. In many cases, even when reproduction of the extract may not warrant a fee, merely an acknowledgment, there may be a minimum sum charged to cover administration. Depending on the amount of material you wish to reproduce and the frequency copying is required, it is likely to be more time and cost effective to take out a licence from a licensing society *i.e.* copyright society.

Need for a Copyright Society



All civilized societies believe in upholding the copyright of creative works of their authors, copyright holders and publishers. India has been a firm believer in upholding the copyright and, as such, the Indian Copyright Law of 1957 with amendments upto the year 2010 has made it a model for other countries to emulate. During the last two decades of the 20th century, new problems had cropped up in the field of copyright due to great technological advancement in the field of photocopying and other gadgets by which the most protected copyright material can be taken away by any user without any hurdle or compensation to the copyright holder.

With these technological developments and with the advent of photocopying, pages from technical, scientific and creative works are being copied by users all over the world. Most of the users do

not realize that when they photocopy a few pages or more, and in certain cases the whole book, they are depriving the copyright holders of their rightful dues. In simple words, it is a theft like any other theft.

To compensate the rightful owners of copyright in print and music, the western world came up with an idea of collecting societies about 4-5 decades ago. Subsequently, this was incorporated in the Indian Copyright Act.



What is a Copyright society?

Collective administration of copyright by societies is a concept where management and protection of copyright in works are undertaken by a society of owners of such works. Obviously no 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 organisational 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. 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. From this it can automatically be inferred that it will be in the interests of copyright owners to join a collective administration organisation to ensure better protection to the copyright in their works and for reaping optimum economic benefits from their creations. Users of different types of works also find it easy to obtain licences for legal exploitation of the works in question through the collective administration society.

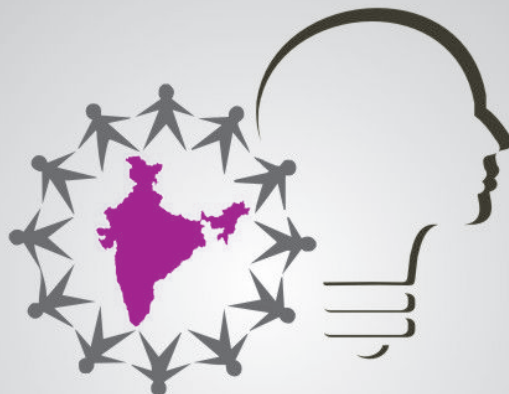
A copyright society is a registered collective administration society under Section 33 (3) of the Copyright Act, 1957. Such a society is formed by copyright owners. The minimum membership required for registration of a society is seven. Ordinarily, only one society is

registered to do business in respect of the same class of work. A copyright society can issue or grant licences in respect of any work in which copyright subsists or in respect of any other right given by the Copyright Act

Registered Copyright societies in India:

The following are the names and addresses of registered copyright societies in India:

- (i) **For musical works:** The Indian Performing Right Society Limited (IPRS), 208, Golden Chambers, 2nd Floor, New Andheri Link Road, Andheri (W), Mumbai- 400 058(Web-site: <http://www.iprs.org>);
- (ii) **For sound recording:** Phonographic Performance Limited (PPL), Crescent Tower, 7th Floor, Off New Link Road, Andheri (West), Mumbai 400 053. (Web-site: <http://www.pplindia.org>);
- (iii) **For reprographic (photocopying) works:** Indian Reprographic Rights Organization (IRRO), 18/1-C, Institutional Area, Near JNU Campus, New Delhi – 110067, (Web-site: <http://www.irro.org.in>);
- (iv) **For performers (Singers) rights:** Indian Singers Rights Association (ISRA)- Registered on 14th June 2013 – Registered Office - 2208, Lantana, Nahar Amrit Shakti, Chandivali, Andheri (E), Mumbai-400072.(Web-site: <http://isracopyright.com>).



Indian Reprographic Rights Organisation



The Indian Reprographic Rights Organisation (IRRO) is the sole and exclusive copyright society mandated to issue blanket / transactional reprographic usage licences. The IRRO has been registered by the Ministry of Human Resource Development, Government of India, vide Registration No. CS/04/reprographic rights in the field of literary works/2002 dated 28th June 2002, as a Copyright Society under sub-section (3) of section 33 of the Copyright Act, 1957. It is exclusively permitted to commence and carry on the Copyright business of "reprographic rights in the field of literary works" in India. IRRO is also a full member of the International Federation of Reproduction Rights Organizations (IFRRO).

The IRRO is the sole licensing authority to issue licenses to users of copyrighted works of its members and collect the royalties on their behalf and distribute them.

Functions of the IRRO:



- IRRO accepts mandate from an owner of rights for exclusive authorization to administer any right in any work by issue of licences and collection of licence fees.
- IRRO issues blanket licenses to organizations – the licenses are issued on an annual basis subject to an annual fee which covers copying throughout that year (thus removing the need to seek permission every time you want to copy) and includes an indemnity from IRRO for all copying done within the terms and conditions of the licence. Thus IRRO provides users a one-window for giving licenses for photocopying and scanning thereby avoiding the need for the users to run from pillar to post to get such licences to copy on an individual basis.
- IRRO collects data from various surveys or other data collecting technique and then prepares a distribution scheme based on collected data.
- IRRO distributes licence fees as per its Distribution Scheme to the rightsowners. The distribution of fees

collected shall be subject to a deduction not exceeding 15 percent of the collection on account of administrative expenses incurred by the copyright society.

- The copyright society is competent to enter into a bilateral agreement with any foreign copyright society, collect licence fees and distribute these to Indian rightsowners as per the Distribution Scheme.

Membership

Any Publisher or Author or Visual Creator of Books, Journals, Magazines and Periodicals is eligible to become a member of IRRO by making one time payment.

Benefits of an IRRO License

- Allows the copying of content from Indian Publications as well as those from other countries.
- Reduces the risk and the potential cost of copyright infringement.
- Offers the only way to get blanket cover so that you don't have to seek permission of copyright owners individually.



Who Needs a licence?

With very few exceptions, any organisation by way of photocopying, scanning, etc reproducing material from copyrighted publications is likely to need a licence to ensure legal compliance.

Our licences will help to reduce the risk and potential cost of copyright infringement.

This requirement applies to organisations in the business, education, government and charitable sectors.



What can be copied?



The IRRO licence is the only way to get blanket clearance and enables you (within limits) to copy what you want, when you want, rather than having to obtain permission from the copyright owners each time.

IRRO licences permit copying from titles published in India plus publications from different international territories. IRRO has already signed bilateral agreements with 22 major Reprographic Rights Organisations (RROs) of the world including UK, New Zealand, Russia, Italy, Japan, Spain, Switzerland, Denmark, Norway, Argentina, South Africa and others. IRRO is also in the process of signing bilateral agreements with many more RROs.

Where does the money go?



IRRO is a non-profit making organization. So all the money collected as licence fees is distributed to the copyright owners after deducting its administrative costs. IRRO undertakes surveys and audits of licensed organisations to help it to pay the authors, publishers, and visual creators whose works are being copied.

Protecting creativity

IRRO aims to obtain fair rewards for authors, visual creators and publishers for the copying of their works. By supporting them in this way, IRRO maintains the value of their works and helps sustain creativity.

This protection has helped India's creative industries grow to support millions of jobs and generate revenue whilst enriching our cultural life.

To find out more about how copyright affects your organisation or to apply for a licence, simply call us on 011-26966931 or e-mail info@irro.org.in or visit our site www.irro.org.in.

