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# Role of copyright board and its quasi-judicial power for protection of copyright in India

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Intellectual property is the creative work of the human intellect. Intellectual property founds its way in Human Rights, everyone has right to protection of the moral and material interest. The main motivation of its protection is to promote the progress of science and technology. Copy right allows people to claim ownership right on the outcomes of the creativity and innovative activity in same way as they can own physical property. In fact, copyright is a form of intellectual property like patent, trademarks, and design etc. The economic and technological development of a nation will come to a halt if no protection is given to intellectual property rights. The laws of copyright springs in the matter of books, movies, music, printing, photographs and software. The law provides copyright holder the exclusive right for a designated period of time to control reproduction or adaption of such works.

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. Copyright protection is applied rigidly, it can hamper progress of the society. However, copyright laws are enacted with necessary exceptions and limitations to ensure that a balance is maintained between the interests of the creators and of the community.

Some of the exemptions are the uses of the work

a) for the purpose of research or private study,
b) for criticism or review,
c) for reporting current events,

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d) in connection with judicial proceeding,

e) performance by an amateur club or society if the performance is given to a non-paying audience, and

f) the making of sound recordings of literary, dramatic or musical works under certain conditions.

The Copyright Act, 1957 (the 'Act') came into effect from January 1958. The Act has been amended five times since then, i.e., in 1983, 1984, 1992, 1994, 1999 and 2012. The Copyright (Amendment) Act, 2012 is the most substantial. The main reasons for amendments to the Copyright Act, 1957 include to bring the Act in conformity with two WIPO internet treaties concluded in 1996 namely, the WIPO Copyright Treaty ("WCT") and WIPO Performances and Phonograms Treaty ("WPPT"); to protect the Music and Film Industry and address its concerns; to address the concerns of the physically disabled and to protect the interests of the author of any work; Incidental changes; to remove operational facilities; and enforcement of rights. Some of the important amendments to the Copyright Act are made in 2012 they are extension of copyright protection in the digital environment[1]The Indian copyright legislation provides for three important authorities and institutions for registration of copyright, effective protection of copyright and also for better enforcement of the copyright of owners and others.

They are:

(1) Copyright office

(2) Copyright Board

(3) Copyright Societies

Copy right Office has been established at New Delhi in pursuance of section 9 to administer certain provisions of the Copyright Act. The Copyright Office has a seal of its own and is in the immediate control of the Registrar of Copyrights who works under the superintendence and direction of the Central Government. Since India achieved independence, the Indian judiciary has been widely acclaimed as the most powerful in the world, for its display of activism and grit.The government has set up a Copyright Enforcement Advisory Council (CEAC).[2] There are no special courts for copyright cases. The regular courts try these cases. There is a Copyright Board to adjudicate certain cases pertaining to copyright.

***COPYRIGHT BOARD***

The Copyright Board, a quasi-judicial body, was formed in September 1958. Which has been constituted by the Central Government in accordance with section 11(1) to discharge judicial functions. The Board consists of a Chairman and two or more[3]than fourteen other members. The Chairman and the members shall hold their office for five years.The Chairman



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shall be a person who is, or has been a judge of a High Court or is qualified for appointment as a judge of a High Court. After consultation with the Chairman of the Copyright Board, the Central Government may appoint a Secretary to the Copyright Board and such other officers and employees as may be considered necessary for the efficient discharge of the functions of the Copyright Board.

Registrar and Deputy Registrars of Copyrights

The Registrar of Copyrights is the head of the Copyright Office under the Department of Industrial Policy and Promotion of the Ministry of Commerce and Industry and in-charge of implementation of Copyright Act. The appointment of the Registrar is done by the central government. The registrar of copyrights is also the secretary of the copyright board.[4]The central Government may also appoint one or more Deputy Registrars of Copyrights. The duty of Deputy Registrars is to discharge such functions of the Registrar under his superintendence and direction, as may be assigned to him by the Registrar of Copyrights from time to time. Any reference to the Registrar of Copyrights is also to include a reference to a Deputy Registrar of Copyrights when he discharges the functions of the former[5]The Registrar of Copyright also plays a very important role. The Registrar of the copyright board will perform all secretarial functions of the copyright board.[6]The Registrar of the Copyright is the authority under Section 9 of the Act who is the officer of the Copyright Office. The Registrar of Copyright has powers of the civil court.[7] And every order made by the registrar of payment of money is deemed as a decree of a civil court and is executed as decree of such court.[8]

***The Copyright Board***

The Copyright Board shall be deemed to be a civil court for the purposes of section 345 ( procedure in certain cases of contempt) and 346 of the Code of Criminal Procedure, 1973 and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of section 193 ( punishment for false evidence) and 228 ( intentional insult or interruption to public servant sitting in judicial proceeding) of the Indian Penal Code, 1860[9]The jurisdiction of the Copyright Board extends to the whole of India.

***COPYRIGHT BOARD AND REGISTRAR POSSESS CENTRAL POWERS OF CIVIL COURT***

The Registrar of Copyrights has powers of civil court under section 74 at the time of trying suit as under.

1) To summon and enforce the attendance of any person and examine him on oath
2) To require the discovery and production of any document
3) To receive evidence on affidavits;
4) To issue commission for the examination of witnesses or documents;



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5) To requisition any public sound recording or its copy from any court or office; and
6) To exercise power in respect of any other matter which may be prescribed.

According to section 75, every order made by the Registrar of Copyrights for the payment of any money is to be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

Orders of Registrar of Copyrights are quasi-judicial

The order passed by the Registrar under section 53 for banning importation of infringing copies are quasi-judicial in nature. The quasi- judicial nature of the order made under section 53 is further emphasized by the fact that an appeal is provided to the Copyright Board against the order of the Registrar under section 72 of the Copyright Act.

***ROLE OF COPYRIGHT BOARD***

1) Hear appeals against the orders of the Registrar of Copyright;
2) Hear applications for rectification of entries in the Register of Copyrights;
3) Adjudicate upon disputes on assignment of copyright;
4) Grant compulsory licences to publish or republish works (in certain circumstances);
5) Grant compulsory licence to produce and publish a translation of a literary or dramatic work in any language after a period of seven years from the first publication of the work;
6) Hear and decide disputes as to whether a work has been published or about the date of publication or about the term of copyright of a work in another country;
7) Fix rates of royalties in respect of sound recordings under the cover-version provision; andfix the resale share right in original copies of a painting, a sculpture or a drawing and of original manuscripts of a literary or dramatic or musical work.
8) To direct the Registrar of Copyrights to grant to the complainant a compulsory licence to republish the works withheld from public; and to determine the amount of compensation and terms and condition for such licence;[10]
9) To rectify the Register of Copyrights on the application of Registrar of Copyrights or of any aggrieved person.[11]

Other than this, another important function of Copyright Board is carried out by the Registrar of Copyright Board are to maintain and provide facilities to the people

***Jurisdiction of Copyright Board***

The copyright board has power to regulate its own procedure,[12]has provided that the jurisdiction of the Board has been divided into zones. The Indian territory is divided into five zones for the purpose of jurisdiction which is mention as below

(1) The Central Zone comprises the States of Uttar Pradesh and Madhya Pradesh.
(2) The Northern Zone comprises the States of Haryana, Punjab, Himachal Pradesh,



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Rajasthan and Jammu & Kashmir, and the Union Territories of Delhi and Chandigarh.

(3) The Eastern Zone comprises of the States of Bihar, West Bengal, Orissa, Assam, Manipur and Tripura.

(4) The Southern Zone comprises of the States of Andhra Pradesh, Tamil Nadu, Karnataka and Kerala, and the Union Territory of Pondicherry.

(5) The Western Zone comprises of the States of Gujarat and Maharashtra, and the Union Territories of Dadra and Nagar Haveli and Goa, Daman & Diu.

Now, the Copyright Board functions in five zones. The Board discharges its functions through the Benches constituted by the Chairman, and the Chairman constitutes benches from amongst its members, each bench consisting of not less than three members.[13] If the matter of dispute is of utmost importance, the Chairman of the Board may constitute a bench consisting of five members.[14] If there is any difference of opinion among the members of the Bench, the opinion of majority shall prevail[15]. If there is no such majority, the opinion of Chairman will prevail.[16] Further, the Chairman may authorize any of its members to exercise any of the powers conferred on it by provision of **Sec. 74** of the Act and any order or act done in the exercise of these powers by the member so authorized will be deemed to the order or act, as the case may be of the Board.[17] Also, no member of Copyright Board should take part in any proceedings before the Board in respect of a matter in which he has a personal interest.[18]

***CONCLUSION :***

The Copyright board in digital age play role of good fences and also protect rightof intellectual work and make copyright owners to associate with the people.

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4) Lp's Intellectual Law Series- Copyright Designs Patents Trade mark-Law Publishers (India) Pvt. Ltd.
5) https://www.lawctopus.com/academike/working-copyright-board-india-procedure-litigation-regards-copyright/
6) www.copyright.gov.in
7) https://en.wikipedia.org





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*(Footnotes)*

1 www.copyright.gov.in

2 The present composition of the CEAC is at Appendix- II

3 Subs. For 'eight' by the copyright Amendment Act, 1994 (38 of 1994),sec.5(w.e.f.10 May, 1995

4 https://en.wikipedia.org

5 Section 10, Copyright Act. 1957

6 Sec. 11(4) read with Sec. 4(4) of The Copyright Act, 1957

7 Sec. 74 of The Copyright Act, 1957

8 Sec. 75 of The Copyright Act, 1957

9 Section 12(7),id

10 Section 31, id,

11 Section 50, id

12 Sec. 12(1) of The Copyright Act, 1957

13 Sec. 12(2) of The Copyright Act, 1957

14 Proviso to Sec. 12(2) of the Act

15 Sec 12(3) of The Copyright Act, 1957

16 Proviso to Sec 12(3) of the Act

17 Sec. 12(4) of The Copyright Act, 1957

18 Sec. 12(5) of The Copyright Act, 1957



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