

# 1. Copyright Act, 1957

## 1.1. What is Copyright?

- Copyright is a **legal term** used to describe the **rights that creators have** over their **literary and artistic works**.
- Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings.

## 1.2. Copyright Law in India

- The Copyright Act, 1957 along with the Copyright Rules, 2013, govern the laws related to copyright protection in India.
- The Copyright Act provides an economic right to the author to **reproduce** the work, to **issue** copies, to **perform or communicate** it to the public.
- It also provides the **right to make any cinematograph film or sound recording** or to make any adaptation or translation of the work.
- The law has been amended six times since 1957 and the most recent amendment was in 2012, through the Copyright (Amendment) Act, 2012.

## 1.3. Sections of the Copyright Act, 1957

- **Section 13:** Copyright protection is conferred on literary works, dramatic works, musical works, artistic works, cinematograph films and sound recording.
- **Note:** Computer programs are protected under the Act as literary works.
- **Section 2:** Consists of various definitions of the work which can be covered under the definition of copyright.
- **Section 14:** Grants the copyright owner a set of exclusive rights. These rights include the right of adaptation, right of reproduction, right of publication, right to make translations, etc.
  - Rights can be exercised only by the owner of copyright or by any other person who is duly licensed in this regard by the owner of copyright.
- **Section 17:** The author of a work shall be the first owner of the copyright.
- **Section 19:** Lays down the modes of assignment of copyright in India. Assignment can only be in writing and must specify the work, the period of assignment and the territory for which assignment is made.

## 1.4. Two Types of Rights

The Copyright Act, 1957 confers copyright protection in two forms: Economic rights and Moral rights.

### Economic Rights

- Economic rights **allow right owners to derive financial reward** from the use of their works by others.
- The authors of copyright enjoy economic rights **under Section 14** of the Copyright Act. The rights are mainly, in respect of literary, dramatic and musical, other than computer programs, to reproduce the work in any material form.

### Moral Rights

- Moral rights **allow authors and creators to take certain actions** to preserve and protect their link with their work.

- Moral rights of an author finds expression in **Section 57** of the Copyright Act, 1957. These are: **right of paternity, and right of integrity**.
- The right of paternity refers to a right of an author to claim authorship of work and a right to prevent all others from claiming authorship of his work.
- The right to integrity permits the author to restrain or claim damages in the event of any distortion, mutilation, modification or any other untoward act done to his work.

### **1.5. Exceptions To Infringement**

The Copyright Act, 1957 provides for certain exceptions to infringement of copyright, **under Section 52**. The following acts shall not constitute an infringement of copyright, namely:

- A fair dealing with any work, not being a computer programme, for the purposes of:
  - private or personal use, including research;
  - criticism or review, whether of that work or of any other work;
  - the reporting of current events and current affairs, including the reporting of a lecture delivered in public.
- Transient or incidental storage of a work or performance purely in the technical process of electronic transmission or communication to the public.
- Reproduction of any work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding.
- Reproduction or publication of any work prepared by the Secretariat of a Legislature or, where the legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature.
- Reproduction of any work in a certified copy made or supplied in accordance with any law for the time being in force.
- Reading or recitation in public of reasonable extracts from a published literary or dramatic work.
- Publication in a collection, mainly composed of non-copyright matter, bona fide intended for instructional use, and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for such use in which copyright subsists.

### **1.6. Berne Convention and Copyright Act 1957**

- **India is a signatory to the Berne Convention** for the Protection of Literary and Artistic Works, 1886.
- Being a signatory, India is obligated to give equal protection to the works originating not only in India but also outside India in any of the contracting states.
- An important principle of the Berne Convention is that the registration of copyright is not mandatory.
- In India too it is not mandatory for one to register a copyright for availing the protection of law. The Copyright Act 1957 also does not mandate registration.

### **1.7. Copyright (Amendment) Rules, 2021**

- The amendments have been introduced with the objective of bringing the existing rules in parity with other relevant legislations.
- It aims to ensure smooth and flawless compliance by adopting electronic means as the primary mode of communication and working in the Copyright Office.

- In order to encourage accountability and transparency, new provisions have been introduced, to deal with the undistributed royalty amounts and use of electronic and traceable payment methods while collection and distribution of royalties.
- To reinforce transparency, the copyright societies will be required to draw up and make public an Annual Transparency Report for each financial year.
- The compliance requirements for registration of software works have been reduced, now the applicant has the liberty to file the first 10 and last 10 pages of source code, or the entire source code if less than 20 pages, with no blocked out or redacted portions.
- The time limit for the Central Government to respond to an application made before it for registration as a copyright society is extended to one hundred and eighty days, so that the application can be more comprehensively examined.

## 2. Geographical Indication

### 2.1. What is Geographical Indication (GI)?

- A geographical indication is a **sign used on goods that have a specific geographical origin** and possess qualities, reputation or characteristics that are essentially attributable to that place of origin (e.g. a town, region, or country).
- The use of a geographical indication may act as a certification that the product possesses certain qualities, is made according to traditional methods, or enjoys a certain reputation, due to its geographical origin.

### 2.2. Why Does the GI Need to be Recognized?

- Every region boasts of something unique and some local products are their claim to fame. This reputation of the region is not built in a day.
- These unique products are a combination of the best of man and nature and it has been carefully preserved and handed over for generations.
- In order to celebrate and recognise the unique identity connecting the products and places, the GI tag was developed.
- In many countries, the protection given to GIs by law is similar to the protection given to trademarks, and in particular, certification marks.
- Geographical indications law demands that the use of the GIs can be done only when the product originates from a particular area and/or meets certain standards.
- Sometimes these laws also stipulate that the product must meet certain quality tests that are administered by an association that owns the exclusive right to license or allow the use of the indication.

### 2.3. Legal position globally

- The WTO Agreement on TRIPS defines "geographical indications" as indications that identify a good as "originating in the territory of a Member, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin."
- In 1994, when negotiations on the WTO TRIPS were concluded, governments of all WTO member countries had agreed to set certain basic standards for the protection of GIs in all member countries.

- **Article 22** of the TRIPS Agreement says that all governments must provide legal opportunities in their own laws for the owner of a GI registered in that country to prevent the use of marks that mislead the public as to the geographical origin of the goods.
- **Article 23** of the TRIPS Agreement says that all governments must provide the owners of GI the right, under their laws, to prevent the use of a geographical indication identifying wines not originating in the place indicated by the geographical indication.
- Furthermore, the significance of protecting industrial property and geographical indications as integral components of intellectual property is acknowledged and emphasised in Articles 1(2) and 10 of the Paris Convention.

#### 2.4. Legal position in India

- The Indian Parliament passed the **Geographical Indications of Goods (Registration and Protection) Act in December 1999** (became effective in September 2003) which aimed at providing a registration and also protection of GI of the goods in India.
- This Act is **administered by the Controller General of Patents, Designs and TradeMarks (CGPDTM)**, who is also the Registrar of Geographical Indications.
  - **Note:** CGPDTM under DPIIT is entrusted with the responsibility of administering the laws relating to Patents, Designs, TradeMarks and Geographical Indications in India.
- Any established organisation or authority can apply for GI tag under the law.
- Under the Geographical Indications, persons who deal with production, processing, trading or dealing of agricultural goods, natural goods, making, manufacturing, trading or dealing of handicrafts or industrial goods, specific to the region are called the producers.
- Registration of the product under the GI facilitates better legal protection and the authorised user can exercise his right to use the tag effectively.
- The registration of GI is **valid for a period of 10 years** each which can be renewed from time to time. If the GI is not renewed then it will be removed from the register.
- A registered GI is a public property which belongs to the producers of the goods. It cannot be used for licensing, pledge, mortgage etc. After the demise of the authorised dealer, his right can be exercised by the successor.

#### 2.5. Some examples from India

State	Product
Andhra Pradesh	Araku Valley Arabica Coffee
	Tirupati Laddu
	Etikoppaka Toys
	Udayagiri Wooden Carving
	Arunachal Orange

Arunachal Pradesh	Idu Mishmi Textiles
Assam	Muga Silk
	Karbi Anglong Ginger
	Joha Rice
Bihar	Shahi Litchi
	Madhubani Paintings
	Sikki Grass Products
	Maghai Paan
Chhattisgarh	Bastar Dhokra
	Bastar Iron Craft
Goa	Feni
Gujarat	Sankheda Furniture
	Gir Kesar Mango
	Kachchh Shawls
Himachal Pradesh	Kullu Shawl
	Kangra Tea
	Himachali Kala Zeera
	Mysore Silk
	Channapatna Toys & Dolls
	Udupi Sarees

Karnataka	Coorg Arabica Coffee
	Mysore Sandalwood oil
Kerala	Alleppey Coir
	Navara Rice
	Alleppey Green Cardamom
	Nilambur Teak
	Screw Pine Craft
Madhya Pradesh	Chanderi sarees
	Jhabua Kadaknath Black Chicken
	Ratlami Sev
Maharashtra	Solapur Chaddar
	Nashik Valley Wine
	Paithani Sarees and fabrics
	Kolhapur Jaggery
	Alphonso
Manipur	Chak-Hao
	Kachai Lemon
Mizoram	Mizo Chilli
	Pawndum
Nagaland	Naga Mircha

Odisha	Kotpad Handloom Fabric
	Konark Stone Carving
	Odisha Rasagola
Rajasthan	Kora Doria
	Molela Clay Work
	Bikaneri Bhujia
Tamil Nadu	Salem Fabric
	Arumbavur Wood Carvings
	Mahabalipuram Stone Sculpture
	Thanjavur Art Plate
	Kancheepuram Silk
Tripura	Tripura Queen pineapple
Telangana	Nirmal Toys and Craft
	Adilabad Dokra
	Cheriyal Paintings
Uttar Pradesh	Lucknow Chikan Craft
	Malihabadi Dussehri Mango
	Banaras Brocades and Sarees
	Kalanamak Rice
	Kannauj Perfume

	Chunar Balua Patthar
West Bengal	Darjeeling Tea
	Banglar Rasogolla
	Wooden Mask of Kushmandi

## 2.6. Significance of GI

- The GI tag is an indication which is definite to a geographical territory. It is used for agricultural, natural and manufactured goods.
- For a product to get a GI tag, the goods need to be produced or processed or prepared in that region. It is also essential that the product has a special quality or reputation.
- GI tag is beneficial because it confers legal protection to the Geographical Indications in India. This identity helps in preventing misuse of a registered GI.
- Moreover, the legal protection of GI boosts exports. GI tag not only helps the country's export market but also helps in promoting economic prosperity of the producers.

## 3. Protection of Plant Varieties and Farmers' Rights Act, 2001

### 3.1. Introduction

- The Government of India enacted the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001 to recognize the contributions of both commercial plant breeders and farmers in plant breeding activity. Rules for the same were notified in 2003.
- The law is in conformity with the International Union for the Protection of New Varieties of Plants (UPOV), 1978 and has sufficient provisions to protect the interests of public sector breeding institutions and the farmers.
- The Act also supports the TRIPS agreement. Under the TRIPS agreement, India was in obligation to introduce a system for protecting new plant variety.
- The agreement made it obligatory for a Member to provide protection to new plant varieties either through patent or an effective *sui generis* system or a combination of these two.

### 3.2. Why to Grant Plant Breeder's Rights?

- Protection is afforded to plant breeders **as an incentive for the development of new varieties of plants**, in order to provide sustainable progress in agriculture, horticulture and forestry.
- Improved varieties are a necessary, and very cost-effective, means of improving productivity, quality and marketability for farmers and growers.
- Breeding new varieties of plants requires a substantial investment in terms of skill, labor, material resources, money and time.
- The opportunity to obtain certain exclusive rights in respect of new with better varieties provides successful plant breeders a chance of recovering their costs and accumulating the funds necessary for further investment.



- In the absence of plant breeders' rights, those aims are more difficult to achieve since there is nothing to prevent others from multiplying the breeder's variety and selling it on a commercial scale.

### **3.3. Objectives of PPV & FR Act, 2001**

- To stimulate investments for research and development both in the public and the private sectors for the developments of new plant varieties.
- To facilitate the growth of the seed industry in the country through domestic and foreign investment. This will ensure the availability of high quality seeds and planting material to Indian farmers.
- To recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their contribution through benefit sharing and protecting the traditional rights.

### **3.4. Varieties Registered under PPV & FR Act, 2001**

- A new variety if it conforms to the criteria of novelty, distinctiveness, uniformity and stability.
- An extant variety if it conforms to criteria of distinctiveness, uniformity and stability.

### **3.5. Rights under PPV & FR Act, 2001**

- **Breeders' Rights:** Exclusive rights to produce, sell, market, distribute, import or export the protected variety.
- **Researchers' Rights:** To use any of the registered varieties to conduct experiment or research.
- **Farmers' Rights:** Farmers variety can be registered as a breeder variety or extant variety. A farmer can save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a variety protected under the Act.
  - Farmers are eligible for recognition and rewards, and for compensation as well.
  - Farmers shall not be liable to pay any fee in any proceeding before the Authority or Registrar or the Tribunal or the High Court under the Act.

### **3.6. Implementation of PPV & FR Act, 2001**

- For the implementation of provisions of the Act, the Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare established the Protection of Plant Varieties and Farmers' Rights Authority on 11 November, 2005.
- The Chairperson is the Chief Executive of the Authority.
- The objective of the authority is to establish an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants and facilitate the growth of the seed industry.
- The authority also works for the acceleration of agricultural development in the country and for stimulating investment for research and development both in the private and public sector for the development of new plant varieties.

## **4. National Intellectual Property Rights (IPR) Policy 2016**

### **4.1. Introduction**

- The National Intellectual Property Rights (IPR) Policy 2016 was adopted on 12 May, 2016 as a vision document to guide future development of IPRs in the country.
- The Policy recognises the abundance of creative and innovative energies that flow in India, and the need to channelize these energies towards a better future for all.
- The policy covers all forms of IP, seeks to create synergies between them and other agencies, and sets up an institutional mechanism for implementation and review.

#### 4.2. Mission of the Policy

Stimulate a dynamic, vibrant and balanced intellectual property rights system in India to:

- Foster creativity and innovation and thereby, promote entrepreneurship and enhance socioeconomic and cultural development, and
- Focus on enhancing access to healthcare, food security and environmental protection, among other sectors of vital social, economic and technological importance.

#### 4.3. Implementation

- The Department for Promotion of Industry and Internal Trade (DPIIT) under the Ministry of Commerce is the nodal department for IPR development in India and the CIPAM under DPIIT is the single point of reference for implementing the policy.

#### 4.4. Objectives of the Policy

- **IPR Awareness-Outreach and Promotion:** To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society.
- **Generation of IPRs:** To stimulate the generation of IPRs.
- **Legal and Legislative Framework:** To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest.
- **Administration and Management:** To modernize and strengthen service oriented IPR administration.
- **Commercialization of IPR:** Get value for IPRs through commercialization.
- **Enforcement and Adjudication:** To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.
- **Human Capital Development:** To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs.

#### **Scheme for IPR Awareness – Creative India; Innovative India**

- Taking forward the National IPR Policy 2016, a 'Scheme for IPR Awareness – Creative India; Innovative India' was launched by Cell for IPR Promotion and Management (CIPAM).
- The duration of the scheme was for 3 Years (April 2017 – March 2020).
- Target of the scheme was to conduct IP awareness workshops/seminars in collaboration with industry organizations, academic institutions and other stakeholders across the country.
- It also proposed to undertake training programmes to create a resource pool of trainers who would conduct the IP Awareness workshops/seminars for the public, enforcement agencies and judiciary.