

COPYRIGHT
IN
CINEMATOGRAPH FILMS

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Part - I

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Let Me Show You Something....

- ◆ Idea

To Advertise a car

- ◆ Expression

Accord

In Other Words..... there can be one idea but many ways to express it....

- ◆ Idea

Photo graph of an Iceberg

- ◆ Expression

Photo- Ice Berg

Iceberg

Iceberg2

Iceberg3

The “Idea” – “Expression” Dichotomy

- ◆ No one can claim monopoly in the idea
- ◆ Why
- ◆ Idea until and unless expressed is of no use
- ◆ There can be one idea but thousands of ways to express it
- ◆ Remember you may have a great idea, but without small realization to express it in the best possible manner – it’s of no use

A Singular Truth Exists in the Movie Industry:

- ◆ “If you can't protect what you own, you don't own anything.”
- ◆ Therefore what is more important is that you protect your possession

But....what should be kept in mind here is

“The primary objective of copyright is not only to reward the labor of authors, but to promote the Progress of Science and useful Arts. To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work.”

What do you Protect

- ◆ Copyright offers a wide protection to:
 - ◆ *original works of authorship*
and includes
 - ◆ literary,
 - ◆ dramatic,
 - ◆ musical,
 - ◆ artistic works, and
 - ◆ cinematograph Films

For Example

- ◆ “Devdas” – a classic novel written by Saratchandra Chattopadhyay in
- ◆ First Film in which made was in during 1930’s
- ◆ Second Film was produced in the year 1955
- ◆ The Third film in the year 2003

Is there an infringement of Copyright of the novel here??

Barbara' Story

- ◆ Barbara the writer of the famous novel – A woman of substance
- ◆ Filed a suit against Sahara
- ◆ Alleging that the making of the serial - Karishma - The Miracles of Destiny
- ◆ Is the copy of her work
- ◆ The courts rejected the plea and instead ordered Barbara to pay 1.5 lakhs per week for delay of the serial

Inspiration may lead to infringement....

- ◆ Reservoir Dogs — Kaante
- ◆ Pretty Woman — Sadak
- ◆ West Side Story — Josh
- ◆ I Know What You Did Last Summer — Kuch To Hai
- ◆ Bodyguard — Anrakshak
- ◆ Cape Fear — Darr
- ◆ The Parent Trap — Kuch Khatti Kuch Meethi
- ◆ Bangkok Hilton — Gumraah
- ◆ Eye For An Eye — Dushman
- ◆ My Best Friend's Wedding - Mere Yaar Ki Shaadi

What is “Work”

- ◆ Specifically defined in the Copyright Act

Works in which Copyright Subsist

- ◆ Copyright Subsist in:

Literary Work (including Computer Software)

Dramatic Work

Artistic Work

Cinematograph Film

Sound Recording

Architecture etc

How Does the Act Defines It...

- ◆ The Act says:
 - any work of visual recording on any medium
 - through a process from which a moving image may be produced
 - by any means
 - And it includes
 - Sound Recording / any work which is analogous to the film

Owner of the Copyright

- ◆ Just like tangible property, intangible property also has an owner
- ◆ The owner of the Copyright in the Cinematograph is the “PRODUCER” of the film

Conclusion

- ◆ Not ideas but expression of ideas can be copyrighted.
- ◆ The motive behind copyrighting the work should not be just monopoly but development
- ◆ Copyright protects the original work of authorship
- ◆ Adaptation of work may not be considered to be an infringement
- ◆ Copyright is a bundle of rights, entering into any of the domain of any of such right amounts to infringement



PART III

What is IPR Infringement

- ◆ The violation of rights of the IPR holder
- ◆ In anyway what so ever
- ◆ Which hampers the commercial, monetary and moral rights of the right holder.

Losses Due to Infringement

1. Loss of clientele
2. Loss of markets
3. Loss in reputation
4. A fictional loss in the initial investments made in order to work the patented product or process (R&D)
5. A considerable amount in filing and defending a suit for infringement.
6. Time in defending a suit

What is Piracy

- ◆ Form of infringement
- ◆ It's a theft
- ◆ Generally with respect to Copyrighted work
- ◆ Majorly in case of artistic, musical and cinematograph films

What Amounts to Infringement

- ◆ Copyright – Any unauthorised translation of the copyrighted work

Facts About Piracy

- ◆ India has produced about 48000 films in a period of last about 60- 65 years i.e around 430 films a year. The amount of monetary loss is – about 750 million Rs/year
- ◆ Software Piracy –
 - India 81% in 1999 dropped down to 60% today
 - USA 86 %
 - China 91%

Copyright Enforcement and Remedies

- ◆ Three types of remedies
 - Criminal
 - Civil
 - Administrative

Copyright Act (Section 63 & 64)

Criminal Remedies:

- ◆ Imprisonment of the accused – 6 months to 3 years
- ◆ Imposition of fine – Rs. 50,000 to Rs. 2,00,000
- ◆ Both the above
- ◆ The infringing copies can be seized without warrant

In Case of Piracy

- ◆ The Case of Piracy is a bit different
- ◆ It is a subject matter of the Act
- ◆ But is also covered under the Indian Penal Code – under Section 420
- ◆ i.e. Cheating
- ◆ Therefore it becomes a perfect criminal remedy

Section 55

- ◆ Civil Remedies
 - Injunction
 - Damages or Accounts of Profit
 - Delivery-up of infringing copies
 - Damages for conversion

Section 53

- Administrative Remedies

- Moving the Registrar of the Copyright to ban the import of the infringing copies to India
- Delivering the infringing copies to the owner of the copyright



Thank You