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Copyright as a Pillar of Intellectual Property Rights: Concepts, Ownership and Legal Protection

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The word copyright is a mixture of two words 'copy' and 'right'. To be more precise copyright means 'right to copy'. Wherein only the creator or his authorised person has a right to reproduce a work. In simple words, a legal right which is possessed by the owner of Intellectual property is a copyright. Copyright is the legal right that automatically belongs to creators when they use their mind and skill to make an original, unique piece of work. This includes things like websites, music, books, software, art, films and it acts as a shield to prevent others from copying or replicating their creation without permission. While creators own the rights immediately upon creation, they can also officially register their copyright to gain a stronger legal advantage if they ever need to file a lawsuit against someone who steals their work. However, copyright does not protect everything. It strictly excludes general ideas, concepts, names, slogans and discoveries meaning a creation must be physically written down or recorded to receive protection.

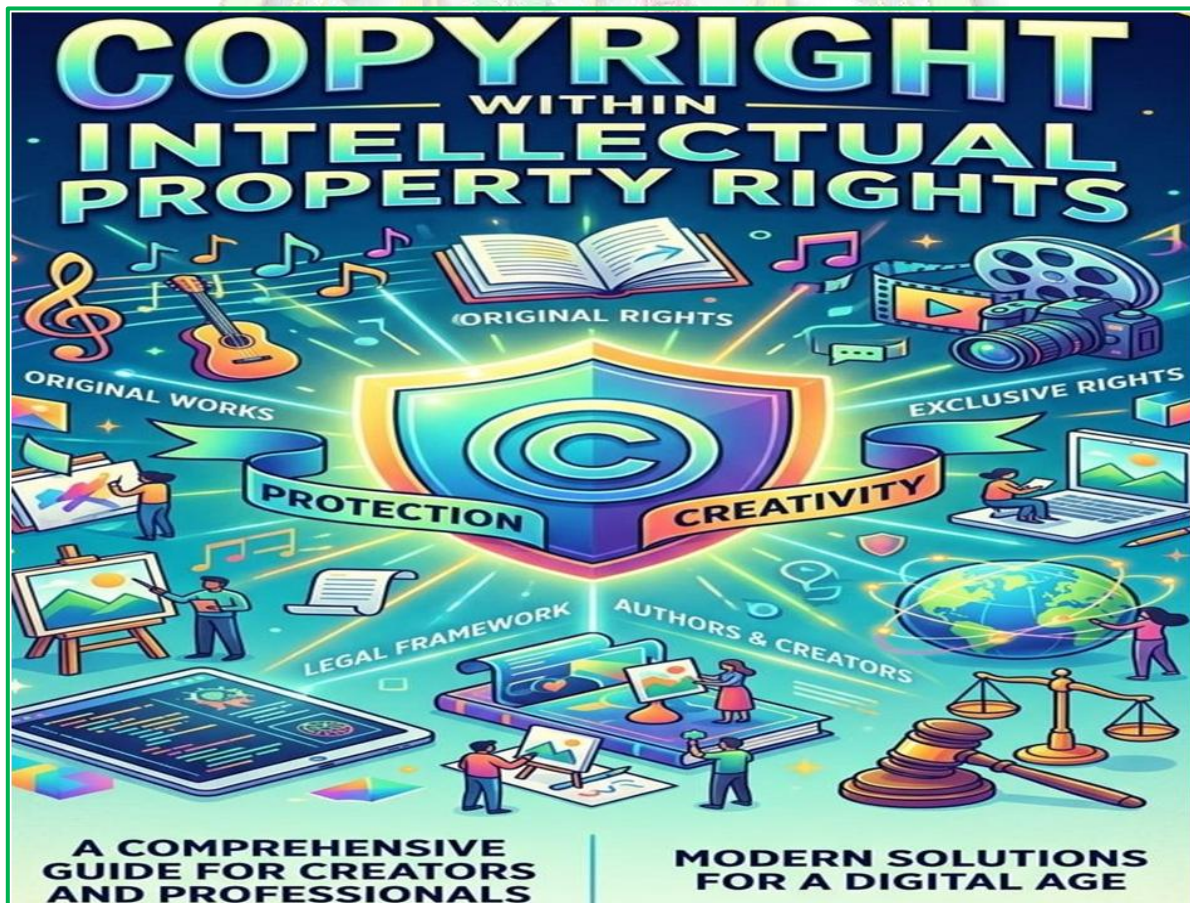


Figure 1: Copyright within Framework of Intellectual Property Rights

Evolution of Copyright Law in India

• Pre-Independent

The roots of copyright law in India can be traced back to the East India Company's regime in 1847. During that time, the work was not automatic and the registration with the Home office was compulsory in order to enforce the copyright. The term of copyright extended to the lifetime of the author plus seven-years of post-mortem. In 1914, a new copyright legislation was passed in India with a few modifications which are as follows:

1. Introduction of criminal sanctions in the case of infringement of copyright.
2. It broadened the term copyright and modified it as a 'sole right' wherein the author has the right to reproduce, change, produce or publish a translation of work.

• Post-Independence

In 1957, a new Copyright law was enacted. Before the Act of 1957, the Act of 1914 was prevalent, which was an extension of the British Copyright Act, 1911. Further in May, 2012 the Parliament of India unanimously passed a bill named Copyright Amendment Bill, 2012. This Bill aimed to bring Indian copyright laws at international level and in compliance with the World Intellectual Property Organisation treaties such as the WIPO Copyright Treaty (WCT) and the WIPO Performance and Programme Treaty (WPPT). Further, the main highlights of the 2012 Amendment bill are:

1. Amendments in the right to artistic work such as cinematograph films and sound recordings.
2. Amendments in accordance with WCT and WPPT.
3. Amendments in the mode of grant of license and assignments.
4. Protection against internet piracy.

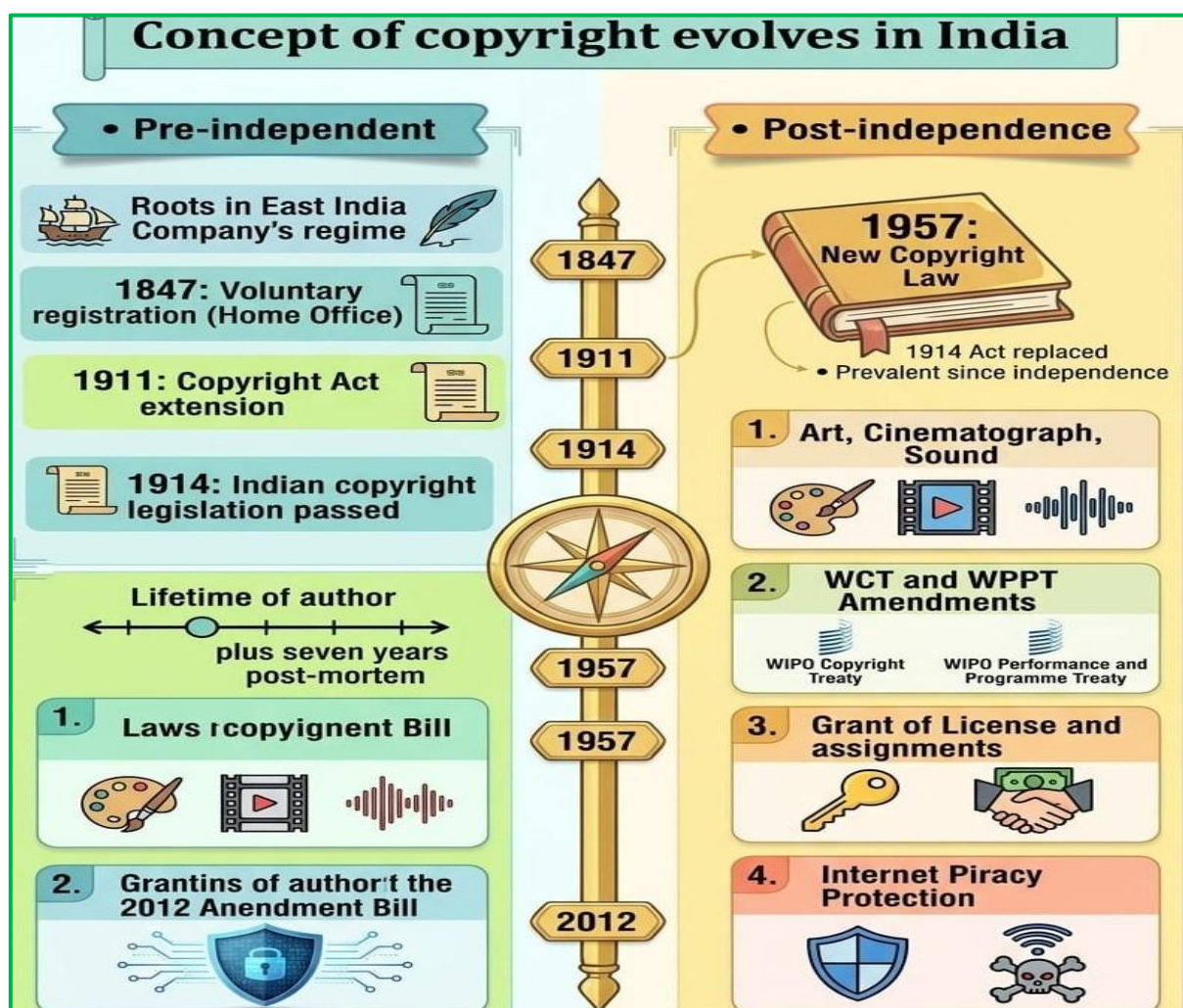


Figure 2: Concept of Copyright Evolves in India

Copyright in different fields

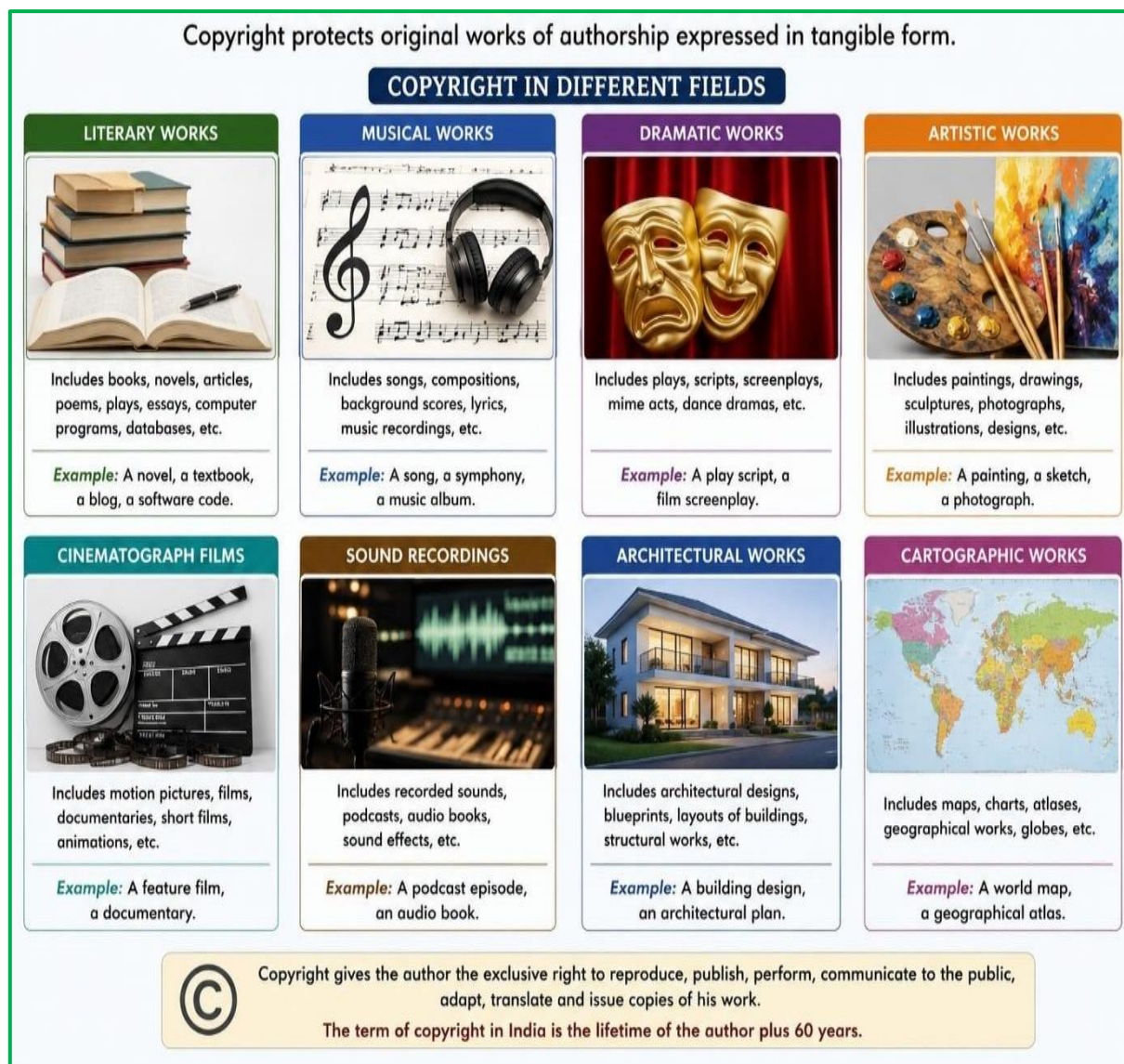


Figure 3: Different Field of Copyright

Copyright Ownership

Copyright is considered to be a *sui generis* right which means that a person who is a creator of a thing using his intellect is the prime owner of that thing and has an immediate right over it. Moreover, in accordance with Section 17 of the Copyright Act, 1957 is concerned with the 1st owner of any work.

- In which cases an author is considered the 1st owner?
 1. In the case of literary works such as content published online, books, computer software, public speeches etc. in these cases the author is considered to be the first owner of the work.
 2. In the case of dramatic, artistic or any musical work the author is the 1st owner of that piece of work. The cases pertaining to art which includes sculptures, paintings, drawings (envisaging, architectural drawing and planning) the creator is the 1st owner of that work.
 3. In the cases pertaining to cinematography, the producer is the 1st owner of the work. As we all know cinematography involve activities such as lyrics of songs, scripts, artistic and dramatic work for this purpose the respective authors shall be the owners. However, in the case of sound recording the producer will be the owner.
 4. If in case any of the above work is done by any person under a contract, then the owner of the work will be according to the terms of the contract. For all that work which is created

by the employee during the course of employment then the employer shall be the 1st owner of that work. Similarly, any work created by a partner in the course of business the work will be counted under partnership. For instance, if any advocate draft something while working in a law firm that creation of draft will be owned by that law firm.

5. Lastly, when a person gives a speech in public, they legally own the words they spoke. This ownership remains true even if another organization hosted the event or if the speaker delivered the speech as part of their job.

Assignment Under Copyright

Assignment is also known as sale agreement for copyright wherein the owner of any work sell his right to any other person with the help of a contract. After the transfer of ownership, the person giving copyright has no control over the fact that how the third party uses it. The person selling the copyright is called assignor and the person buying is known as assignee. Once a sale is completed the assignee is vested with all the rights and he may use that work in whatever manner he wishes to use it. For the assignment to be valid the contract must be written and signed by both parties, the subject of the assignment of copyright must be clear and without any ambiguity.

License Under Copyright

- License under copyright rights means that the owner possesses or maintains his or her copyright ownership rights. However, when he permits or allows another party to exercise some of those rights without the party's actions being considered an infringement of copyright. The person giving license is referred to as 'licensor' and the person who is given the license is called 'licensee'.
- Usually, a license is more preferable than an assignment. This is because the copyright holder has the full right over his work and can exercise ownership control over the work. Whereas, the licensee uses just a few rights given by the copyright holder.
- For instance, a software license agreement is signed between the copyright holder and the licensee, whereby the copyright owner grants the licensee pertaining to the right to use the software in a manner which is specified in a contract. In return, the licensee may agree to limit the use of the software as per the agreement and at the same time pay the copyright owner license fee.
- Unlike a copyright assignment, a copyright license may or may not have to be in a written format and signed by both the parties. It can be oral or arise by implication when considering all the facts and circumstances surrounding the transaction between the copyright owner and the purported licensee.

Copyright Authority

The term copyright office is given under section 9 on the Copyright Act,1957 makes it compulsory to have a copyright office. The copyright office is controlled by the registrar of copyright which is appointed by the Union government. Which means that he will be working under the guidance, supervision and orders of the union government. The main aim of registration office is to provide facilities of registration and is headed by the registrars.

- Artistic work
- Literary work
- Story themes
- Lyric books
- Story books
- Software
- Cinematograph films
- Music
- Sound recordings

Infringement of Copyright

Copyright infringement happens when you use someone else's original creative work like a book's theme, an article or song lyrics without getting permission from the owner first. Additionally, if a creation is protected by copyright law then you cannot legally share it with the general public in any way, whether through digital uploads online or physical distribution. Unless you have the explicit approval of the person, publishing house or business that holds the legal rights to it.

Table 1: Remedies for Copyright Infringement

Type of Remedy	Detail and specific Actions
Civil Remedies	Includes injunctions (preventative court orders), return of account of profit and delivery of infringing copies of the work and conversion damages.
Criminal Remedies	Includes imprisonment of the accused, imposition of a fine or both.
Administrative Remedies	Involves moving to the Registrar of Copyrights to ban the import of infringing copies into India and requesting the delivery of such copies to the copyright owner.

How to avoid copyright infringement?

Copyright laws are a shield to protect the creator or author of original works. which are creative at the same time intellectual expressions from others using and earning a profit from their work, without the owner's permission. The idea behind copyright is that the author or creator owns the rights to his work and has the complete discretion over how others use his or her work or creation. For instance, music copyright would exist with songwriters on their lyrics. When songwriters allow artists to record their words, there would be an agreement outlining how the right to record is granted, thus avoiding copyright infringement. If another artist decided to record the same song without permission, the songwriter would be able to bring legal action for copyright infringement against the artist. If you believe that the copyright infringement definition sounds like stealing, you would be correct.

Process to obtain Copyright

- The person applying for copyright has to follow the following steps:
 1. The person has to file the application along with the fee either in the form of DD/ IPO.
 2. Then the diary number will be issued.
 3. The person has to compulsorily wait for 30 days for objections.
 4. If in case, no objection is filed then:
 - Application will be accepted.
 - It will go to the examiner for scrutinization
 - If in case there is no discrepancy found, the application will be sent for approval.
 - If discrepancies are found, then the discrepancy letter will be issued to the applicant. The applicant will have a right to reply which will be heard by the registrar. In case the registrar is satisfied by the reply he may approve the application and send extracts from the register to the applicant.
 - However, if not satisfied then he may reject the application and send the rejection letter to the applicant.
 5. If in case, objection is filed:
 - The letter will be sent to both parties i.e. party filing objections and the party against whom the objection is filed.
 - Reply will be wait from both the parties.
 - Reply by both the parties will be heard by the registrars.
 - If in case objections are rejected the application will be accepted and if objection will be accepted, then the application will be rejected.

This procedure applies in the case of both the published or unpublished work.

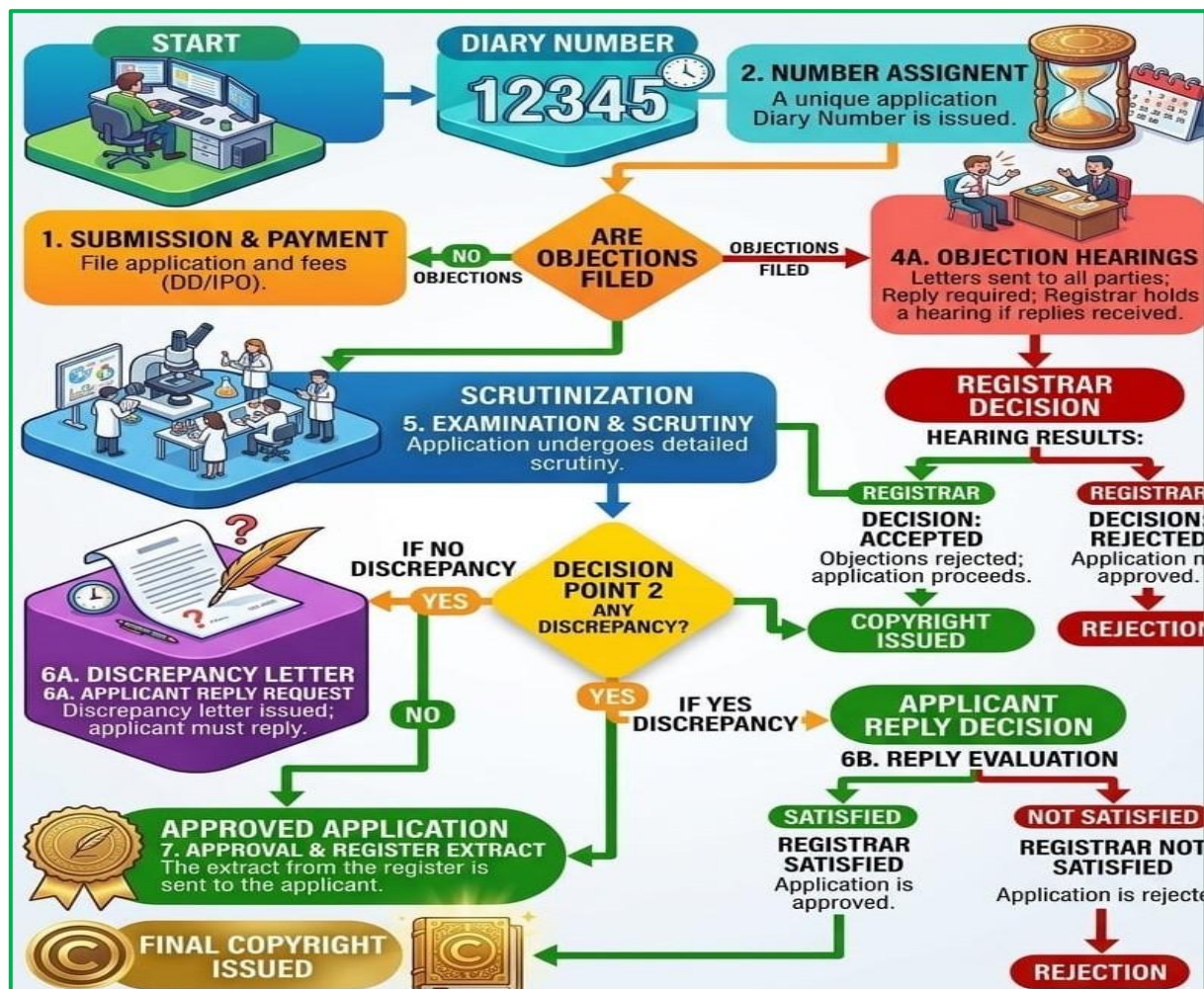


Figure 4: Flowchart to Copyright Registration

Fair Use Rule in Relation to Copyright

Fair use allows people to copy and use copyrighted material without getting permission from the original owner, as long as it is done for a limited and "transformative" purpose. This means the new work should add something new, such as using the material for criticism, comments or parody. Essentially, fair use acts as a legal shield to protect individuals from being sued for copyright infringement if their actions meet the necessary criteria. However, the exact definition of "transformative use" remains vague and open to interpretation, which has led to millions of dollars being spent on legal fees to settle disputes. Lawmakers did not write specific laws for "fair use" because they wanted the rule to grow and adapt over time just like our freedom of speech. If the rules were too strict, they would quickly become outdated as new technology and art forms are invented. Instead of a strict checklist of what is allowed, the law provides general guidelines. Judges then look at past court cases to help them decide if a new situation qualifies as fair use.

Conclusion

Copyright is a vital component of intellectual property rights that provides legal protection to original literary, artistic, musical, dramatic and digital works. By granting creators exclusive rights over the use, reproduction, distribution and adaptation of their creations. Copyright encourages innovation, creativity and the dissemination of knowledge. The evolution of copyright law in India reflects the growing need to protect intellectual creations in a rapidly changing technological environment. Understanding concepts such as ownership, assignment, licensing, infringement, fair use and registration is essential for both creators and users of copyrighted works. Effective copyright protection not only safeguards the interests of authors and creators but also promotes a balanced system that supports public access to knowledge while respecting the rights of intellectual property holders.

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