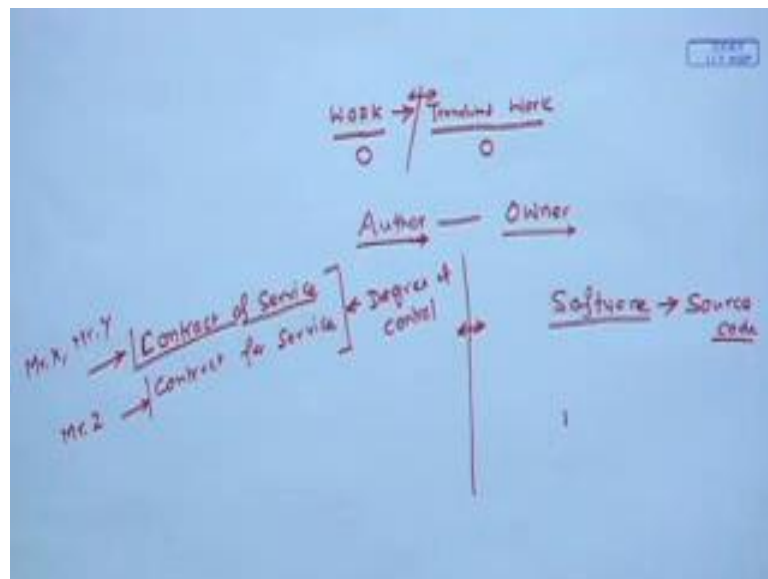


Introduction on Intellectual Property to Engineers and Technologists
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Lecture -18
Copyright Registration

So you got some idea regarding copyrights, just like say, what is copyright? Then what is our domain of copyrights? Then what criteria, what should meet to get copyright protection? So, now, if I ask a silly questions to you, whether translation of a literally work, will be considered an original work, what will be your answers? I will say, answer will be yes; translation can be original work, but the rights to translate have been provided to the authors, or let us say owners. So, what I want to mention, that, just like say.

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Work and translated work. So, you are getting two works, one work, translated work. So, when I will consider this original, this is also original, but you have to take permission from, if you do not permit, do not take permission from the original work owners, of the original work, that will not, you will be treated as infringer and answer those questions. So, what I want to mention here, that we are getting two words here, one is authors, and other you may consider owner. When I discussed about the patent, we have to come

across the two word, inventor and patentee in respect of copyright, we have another important parameter, is author and owner.

So, when I discussing that copyright registration procedure, but we start that part, you should get an idea regarding that authors, and owners. Just like say, when I discussed the patentee, means patentees considering the owner, then in respect of copyright, the creator will may consider just like inventor, the who invent the authors who, himself like say, who create that work, I can consider, write a poem just like say, who is the author of that poem and who wrote that poem? Who is the author, who is the writer of that script? Means who wrote that script, so means that who creator. Who is the author of that painting? Who created that painting? Understand? Who is the author of that musical notation? So, who created that musical notation? So, like this way; so authors one part. So, who create that work, who wrote that work, who wrote that poem, is considered as authors. So, here also we are getting two terms, authors and owners, so OK?

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AUTHOR AND OWNER

- Author of the work is the first owner of copyright in the work. There are exception for example when author is an employee and the work is made in the course of employment
- The author is the person who actually writes, compiles, composes or draws the work
- The author of a cinematographic film is producer
- The author of sound recording is producer
- The author for photograph is the person taking the photograph

✓ Copyright subsist by virtue of its creation and or publication but the purpose of registration is proof of authorship.

✓ Copyright can be registered in India by filing appropriate form and fee, along with your work in Copyright office, Under Ministry of Human Resource Development, GOI

• CASE STUDY: AUTHORSHIP AND OWNERSHIP

Now, in respect of copyright, I will try to discuss that fact fast, before going to the discussion on say, registration procedure. As I suggested the authors of the work is the first owner of the copyright in the work. So, who is the first owner of the copyright in the work? The Patent Act has not mentioned clearly the rights of the inventors, they are mention the rights of the patentee here also copy they told initially, copyright, but they have not mentioned copyrights of what, whose, authors or owner? Or who will be the

authors or owner, but act has mentioned, authors of the work is the first owner of copyright in the work. So, is there any chance of second owners? So, definitely for that reason, the assignee, assignment sale, and other elements is there.

So, for that reason they told, author is the first owner of the copyright. So, exceptions are there, except to the any (Refer Time: 05:07) act, if you read the section 17 of the Indian Copyright Act author is the first owner of copyright, except to the any agreement, to the agreement to contrary. So, authors, always the first owner of the copyright or the copyright except to the any agreement to the contrary, there is an agreement that suggested that the author ownership should be vested to the other party. So, then the author ownership should go to that persons. Otherwise author is the first owner of copyright.

So, just like, you're employee employer agreement suggested, that the course of your employment, the course of your employment, if you generate a software or a poem, or a painting, you have to assign the right with reference to that work, to your employer. So, in that case, the say, ownership should vest to that employer. So, further reason, they had Act has created a provision of not any agreement to the contrary. So, regarding that, just like say, I am referring that author is the first person, who actually writes, compiles, composes, or draws the work in respect to literally work or artistic work, just like say who is the authors, who actually writes, compiles, composes, or draws the work. Author of the cinematographic film is producer, author of the sound recording is was producer, and author of the photograph is the person is taking who is taking the photographs. That say I am referring. So, the person who writes that one is consider the authors, if that, authors will be the owners, if there is no agreement to the contrary.

So, here lies the issue with the reference to the authors and owners. Just like say, I told, copyright exist on, say exist on, something fixed in a tangible medium, and copyright does not protect it is, protects it is idea. Now, let say Mister X has been sharing some idea of video games with his friends, later on taking that idea, one of the friends, Mister Ram has created a video games. So, now who will be the authors of the video game? And, who will be the owners of that video games? In that case, the person who has expressed the idea in a tangible medium will be the authors, and author is the first owner of copyright. So, out of those people, if those people who has found those idea, that idea, if idea is not a shared without an agreement, or considering the confidentiality part, even

that is different issues. So, in that copy, in respect of copyright, the authors will be the person who has converted that idea in a tangible medium.

So, the authors who will be the person who has, who has converted that in the fixed, that in the tangible medium - that Ram has converted that video games in the tangible medium. So, then Ram will be the authors, and he is the owner of that copyrights. Similarly let say, here the important part in copyrights are there, just like authorship and ownership, series of cases and case laws are there, and that say, the agreement to the contrary, considering that they have created an expression, for that that is sometime called, Contract of Service and Contract for Service. Just like a, Contract of Service, I will put that, a news paper organization the employee, lets say Mister X, Mister Y, on permanent role. And also they are appointed on temporary basis, for a one job, for supplying some news item, to Mister Z, that is say, show a Mister X and Mister Y, is under the under the forgive of Contract of Service, under the employee employer contract, means that say, sometime we referred as master, servant, agreement. So, Contract of Service, Contract for Service is also governed by one factor, means degree of control, degree of control ok?

Degree of control, if Contract of Service and for service, that part means let us say, sometime called master servant agreement; now what are the degree of control that employer can exercise or the person who have, who has executing that control, can exercise to them, if they are under master servant kinds of situation means, whatever away the masters is telling, that servants has to follow that, then they are under the Contract of Service (Refer Time: 10:56) differs, the degree of control is higher here. Then Contract for Service say, in that case, degree of control you may consider, less specifically, situation to situation, let say, Mister X and Y, under permanent role. So, they are supposed to provide the material to the newspaper or publicly organization, as their boss, means that employer is suggesting and Mister Z has higher or Mister Z is a freelance news reporter. He is just like a freelance, means he is providing some report with reference to a cricket match and he is freelance.

He is providing report to mister call news paper item a mister (Refer Time; 11:48) sports man and last this is (Refer Time: 11:49) states man and (Refer Time: 11:50) Times of India and others. So, he is not directly under the contract of any of that newspaper on that degree of control level for freelance writer. So, he is providing write up to Times of India

write up to Statesman, write up to The Telegraphs. So in that situation, you will be the under contract, may be under the contract for service. In that case, the authorship and ownership of those, is write up may lie with the Mister Z only in respect of Mister X and Y, as they are under the direct degree of control of the employer, in that case, ownership, authorship would lie with the Mister X, Mister Y, but ownership may shift to the employer.

In that case, second case, Mister Z is the author and owner with reference to the script, whatever he has been writing. So, here, nice way you can create different kinds of case studies. Understood that copyright, case study or I may, let us create, let say refer to news paper item itself. So, let say Mister X and Mister Y, is a permanent employee of a newspaper, is called Telegraph. They are providing some script, news item in the form of the script. So, news item I can, the parts, part they are representing in the form of some expression and they are sending that script or expression to the editor of the newspaper, ok?

Now, editor of the newspaper, he is doing editing. And editor person is published by the newspaper called Telegraph. So, now, if I ask that, script item, who will be the authors, and who will be the owners, of the published news item? So, now, if I analyzed the owners should go to, based on the Contract of Service, ownerships, the editor is also maybe under purview of Contract of Service, or employee employer agreement with that Telegraph newspaper. So, that based on the Contract of Service, of that ownership should go to The Telegraph newspaper, and authorship should remains with Mister X, Mister Y; Mister Z. May be not Mister Y, and editors, depending upon the situation ok?

So, because, if that editing instead of editing just like say, the editor is doing just like mere robotic contribution kinds of situation without involving his intellectual components, then the authors are Mister X and Mister Y, otherwise I will put Mister X, Mister Y and editors are the authors and the ownership should goes to the Telegraph newspapers itself. So, you got that thing, just like say authors and owners, one this is important part, why would that important part because, for registration of the copyright, definitely who would apply for registration? The owner should apply for registration. So, you should know who is the owner? Then you will able to trace that who will apply for registration of the copyright registration is, as such required then. So, different case specific studies also you can create, regarding the authorship and ownership, just like say

when we talk about copyright infringement part, just like say there is important stories are there, just like say, New Delhi, Modi, or New Delhi kinds of situation, let say, hypothetical situation, let say Mister Y has written a drama.

Now, he wants to convert that into cinematographic film. So, he asked some somebody, and tried to show him the drama, in particular theaters, that drama. Now out of the drama, that person, whom he called later on, he, without taking permission in this, has converted into a cinematographic film. So, whether it can be considered an adaptation. So, now, if now that, the creation of the producer is substantially different from that of the occasion of the drama, then it will be again considered as original work. The substantiality will be decided, based on the facts or circumstances, just like say, that, whether it is coming within the purview of copying of facts, or other elements, that will be decided, situation to situation specific. So, that authorship and ownership part you understood, partly. Now registration and registration procedural components, if you, so if you, read Indian Copyrights Act, as that say, it is refer that copyright there is no common law copyright. So, copyright means common law copyright, copyright whatever the statute, means Copyrights Act will be provided, that as part the act copyrights will also, will subsist. There is no common law copyrights.

So, now how to create right? Just when you discussed of that patent, were told you, one component is called creation of right, how to create rights the act suggested, that copyright subsist by virtue of his creation. So, then, whether registration is required or not? If you create some work by virtue of creation on or publication, copyright will subsist on that work, but why there is a requirement of registration, copyright registration is also there. Registration procedure also there, but registrations because, registration by virtue of that the work will be registered in the copyright office, and you will be get a copyright registration certificate from that, copyright office. So, it will be a valid proof in respect of your ownership with reference to the specific work, if some mitigation arises, then you this will be a valid proof, otherwise you have to fought, you have to ultimately, just like say, you have to say, you have to extract some evidences, the reference to the authorships. See the valid evidence with reference to the registration; is a valid reference, for authorship and ownerships, ok?

So, copyright subsist by virtue of creation and or publication. So, here I will again give you an idea of 3 categories of work you may consider, is something is unpublished. If

something is published, my instead of authors by published by somebody, what is the situation with reference to those kinds of work? Sometime is called anonymous work, pseudonymous work, force Thomas (Refer Time: 19:41) work, if just like say, author is unknown with reference to that work, there is some procedural aspects also in that case that authors in, when author is a first owner, then in that case, you have to publish that, you have to serve the notice regarding that work in the newspaper widely circulated in that particular region. So, that say, that stating that, anybody have a right with reference to that work, I want to publish that work. So, understood that by virtue of publication, if some name or pseudo name is there, there is an issue, or to identify the actual authors and owners of that work.

If in that case, the procedural aspects suggested you have to be just like say published serve a notice, in their local newspaper circulated in that area to trace that authors and owners of that work. So, copyright means, if you want to register the copyright, there is a procedural aspect with the reference to registration of the copyrights. So, who will apply for registration of the copyright? I will say the owners, owners' means, owner by virtue of assignment, owner by virtue of maybe sell, owner by virtue of your employee, employer, agreement.

Now, let us say I consider, with reference to the IIT Kharagpur. So, now, let say some professor has written a software, written a software. In software, we can consider one element is the source code. Regarding software copyrightability, will later on discuss regarding that soft, what will be the elements of copyright protection within the purview of software, means whether soft source code, whether structure sequencing or other part. Just like say consider software definitely we have a source code in that software. So, now, he wants to register that copyright. So, professors mean let say, now analyzed that, professor is under employer employee agreement with IIT Kharagpur. So, who will be the owner with that software now? So, the software ownership should go to the IIT Kharagpur, ok?

So, now who will apply for copyright registration? So, copyright registration, that IIT Kharagpur as an applicant, will applicant, will apply for copyright registration. Where will you apply? The copyright office, where it is? It is under the purview of ministry of human resource development is only, with HRD at Delhi and specifically now, considering today's situation. So, it is Delhi, only one copyright registration, registered

office. So, how will apply? There is a corresponding form, will apply in the with respective fees, forms, referred, who is the applicant and who is the authors, then he has to give the evidence of the work, if there is a software, he has to provide the CD, and continue the score code of the software, is to give a name of your work and just like say software or a data base for weather monitoring or a the data software data base software like this way.

Sometime he has to give the language in which he has written that software, just like say, he has been using mat laps, particular version or c plus plus, he has to refer the language. Then which class of what software, I referred already, literally work. So, what work title, language, along with the content of the work he has to provide and the fees, for literally work, very nominal fees is there are then, and he has to provide, along with the applications, also a No Objection letters.

It may be later on communicated, but generally it is advisable submit along with the application form. So, No Objection from the authors will write that we have No Objection with reference to the work to be registered, in the name of the applicant. So, application form, No Objection letters and work itself, you will submit, send to the copyright office, they may check the mere formalities. They will check the formalities, just like say, they will not check, per say, the originality or examine, they may do formal examinations with reference to the work. Then it will be registered. Not so much stringent procedure. Just like in the patent, we have the, just like publication all sorts of thing. So, not like that, it will be registered based on the work. So, copyright understood, copyright registration is not compulsory, but if you register, that will be valid proof, regarding ownership, ownership and evidence there copyright registers, will reflect the ownership and the class of work, and certificate also will give an evidence of ownership, with reference to that work.

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So, in respect of US also, there is no requirement for registrations, there also based on the creation and publication work will be protected in USA also but, US corporative, there is a procedure, just like say, if you if you want to file an infringement suit in USA, with reference to the a work, then owner, have first have to register, then only you can fail infringement suit, you understood that? Procedural aspect little bit different, means you have to first register, then can only fail infringement suit, you can enforce your right, in USA. India that is not there, the owners can file an infringement suit, because right, somebody can acquire right based on creation. So, you can consider creation and registration is the, method creation and or registration, we can put, is the method to get right, with reference to the copyright creation and registration is the methods. Definitely, creation or registration or creation and publication is the method or, to getting rights, in the respect of copyrights, ok?

So, copyright registration is not compulsory, but registration will give some source of advantage with reference to evidential component, with reference to the copyright. So, how to register the copyright, you understood? The copyright will be register. Now you can say, use your copyright, transferred your copyright before that also, after that also, copyright can be transferred to the assignee or by virtue of sell, copyright can be transferred to another owner. So, a copyright registration procedure, we are discussing. So, before, we also discussed about the author and owner that is, one important parameters with reference to the copyright part. So, just like registration procedure is a

reference to the copyright, you understood partly and you understood those authors and owner, another component for the copyright part ok?

So, just like say, this module I kept it for the procedural aspect. All the procedural aspect is very simplified ways, that is the typical work flow, you may not be properly represented, that is, I am copied it, I copied it from the office, copyright office sites. So, it is not clearly visible, but this is the work flow chart, they have been provided with reference to the copyright office. So, here also, just like say, if I consider the administration, administrative procedure to reference to the copyright, we have a copyright office, just like say copyright office, they sometime we call copyright boards, try to address the various issues with reference to the licensing and copyright ownership type of issues, and also relate issues, related to the anonymous or post posthumous work, copyright, it there is a copyright registers is there, just like say they are just patent administration I have not mentioned, but they are different (Refer Time: 29:06) and less than western controllers (Refer Time: 29:06) controller (Refer Time: 29:06) here.

Only one corporative registers are there, and there is a copyright board, formation of copyright board, although that is not functioning, non functional now. It is the copyright board can sit, depending upon the situation arises in the different places in the copyright board is also there to, for administration. So, copyright administration you can consider, the copyright boards and copyright registers and the copyright office is at Delhi. So, that administrative part, you understood with reference to the copyright, specifically. Let us close this class now.

Thank you.