

PRACTICE AND
PROCEDURE MANUAL
2018



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COPYRIGHT OFFICE

The Copyright Act of 1957 (hereinafter referred to as the “Act”), vide Section 9 mandated the establishment of an office to be called the Copyright Office (hereinafter referred to as the “Office”), for the purposes of the Act. By statute, the Office is under the immediate control of the Registrar of Copyrights, who acts under the general superintendence and direction of Central Government. The rules of procedure are contained in the Copyright Rules, 2013 (hereinafter referred to as the “Rules”). After transfer of Copyright Office and related subjects to DIPP (Ministry of Commerce) from MHRD in March 2016, the office has been declared a subordinate office under the Office of CGPDTM, Mumbai.

The Office administers the various functions set forth in the Act, including but not limited to maintaining the Register of Copyrights in which entries such as names and the addresses of authors, publishers and owners of copyright are entered therein. The Register has a separate Part for each category of work.¹ Section 45 of the Act states that the Registrar of Copyrights, on receipt of an application, may enter the particulars of the work, *after holding such enquiry as he may deems fit* and shall send² a copy of the entries made in the Register of Copyrights to the parties concerned.

EXAMINATION PROCESS

On receipt of an application, the Office conducts a Formality Check to ensure that the basic requirements (2 copies of work, Complete FORM-XIV, power of attorney (if applicable), prescribed fees etc.) are complied properly, and if not,³ a letter, for furnishing the necessary requirements, is issued to the applicant at his/her communication address to remove the concerned discrepancy within a period of 30 days from the date of receipt of such letter. The application that qualifies the Formality Check is assigned to the Examiner, to examine whether it satisfies the Protection Prerequisites and Registration Prerequisites as laid down under the Act and the Rules.⁴ After examination of the application the concerned Legal Assistant put up the application with his comments to the Deputy Registrar for final approval/further direction.

¹ Rule 69

² Rule 70 (14)

³ In such cases, the status of concerned application(s) is updated as ‘Work Awaited’ on the website of Copyright Office.

⁴ Rule 70 sets forth the mandatory requisites that are to be complied for every application.

According to Orders of the Deputy Registrar who enjoys the delegated power⁵ of the Registrar, the application is processed further. The Act empowers the Registrar to enter the particulars of work in the Register of Copyright (ROC) if satisfied about the correctness of the particulars. However, Registrar of Copyrights is mandated⁶ to give an opportunity of hearing, before rejecting any application filed for registration. For detailed examination process, see Registration Prerequisites.

1. Introduction

This document reflects the general practices and procedures of Copyright Office for examination and registration of *literary works*. It explains the process for filing of literary work application(s), documentation of ownership; provides guidelines on how to identify the originality of authorship, copyrightable subject matter and discusses the grounds on which a discrepancy letter may be issued. This document is an internal manual and for the office use only.

This document does not cover every principle of copyright law, the practice and procedure set forth in the document do not in themselves have the force and effect of law. Matters of concern are set forth to explain the practice and procedure of the Office, in consistency with the provisions of the Act and the Rules; and in case of ambiguity pertaining to various issues, reference have been made to case laws, in order to ease the understanding of provisions.

2. Literary Work

The Act states that copyright subsists in *original* literary work,⁷ and Section 2(o) of the Act provides an inclusive definition of “literary work”, stating that the term- “*includes computer programmes, tables and compilations including computer databases.*”

Irrespective of the quality, style or literary merit, a work may be considered as literary, if it is expressed in print or writing or in some form of notation or symbols. A literary work is something which is intended to afford either information or instruction, or pleasure in the form of

⁵ Section 10(2)

⁶ Rule 70 (12)

⁷ Section 13(1)(a)

literary enjoyment.⁸ The term ‘literary’ in copyright law is to be used in a sense somewhat similar to the use of word literature in political or electioneering literature and refers to written or printed matter.⁹ Literary works includes but are not limited to textbooks, poem, magazine, catalogue, letters, novel, dissertation, lyrics of song etc.

2.1 Dichotomy between Literary and Dramatic Work

Copyright subsists in original dramatic work and its adaptation. Section 2(h) provides that “dramatic work” *includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film.*

Choreography and scenic arrangement is the art of arranging or designing of ballet or stage dance in symbolic language. It is a form of dramatic work. The Act makes a distinction between a ‘literary work’ and a ‘dramatic work’. The difference between the two rests on the fact that a literary work allows itself to be read while a dramatic work “forms the text upon which the performance of the plays rests”.¹⁰

A dramatic work is something that is capable of being written or printed or reduced to some permanent form, however being so reduced, it does not include a cinematograph film and indicates the mode by which it should be expressed i.e. either with dialogue or by action.

2.2 Computer Programme

Section 2 (ffc) of the Act provides that- “*computer programme*” *means a set of instructions expressed in words, codes, schemes or in any other form, including a machine-readable medium, capable of causing a computer to perform a particular task or achieve a particular result.*

A work may be registered as a computer programme under literary works, if it is a subject matter of the aforesaid definition and qualifies the Protection Prerequisites and Registration Prerequisites. For this purpose, applicant may submit an application for

⁸ Exxon Corp v Exxon Insurance Consultants International Ltd (1982 RPC 69)

⁹ University of London Press Ltd. v. University Tutorials Press Ltd., (1916) 2 ChD 601.

¹⁰ Academy of General Education, Manipal v. B. Malini Mallya, AIR 2009 SC 1982

registration under Software Category (Not Literary Category)¹¹, accompanied by the source and object code.¹²

2.3 Tables and Compilations including Computer Databases

In the Indian Copyright Act, there are no specific meanings attached to the terms tables, compilation and databases, but these are copyrightable subject matter and are protected as literary work.¹³ In addition, judiciary has read into laws, to provide a meaning of these terms and to determine the extent of copyright protection granted, for such works. To obtain copyright protection for a table, compilation including computer databases, the work must exhibit some creativity or originality in the selection or arrangement of the contents of the work. If the labour and skill required to make the selection and to compile the tables which form its items is negligible then no copyright can subsist in it.¹⁴

The selection of some common place tables in a pocket diary does not involve the exercise of any taste or literary judgment and such a compilation does not constitute original literary work.¹⁵ *If no originality is found in the expression and content of the work, the work will not qualify for copyright protection.*

The notion of originality of content of the work cannot realistically be present in any kind of compilation. Nevertheless compilations as such come within the ambit of copyright protection for literary works, since they are referred to as collections in the Berne Convention, but in reality they do not possess originality in the same sense as genuine literary works. Originality in their case is tested on the grounds of the selection and arrangement of the material used to compile the final work. The author of a compilation does not really create anything new, but merely selects and arranges prior work. In such cases, copyright protection is only provided for the new original literary work of authorship and not to the work as a whole.

¹¹ Rule 69 (1), Part VI

¹² Rule 70 (5)

¹³ Section 2(o)

¹⁴ GA Cramp & Sons Ltd v. Frank Smythsons (1944) AC 329

¹⁵ *Ibid.*

3. Adaptation

Section 2(a) of the Act provides the meaning of “adaptation”. Adaptation of a work may be registered, provided that the author contributed sufficient amount of new authorship to the work. It is the new version of prior or primary work or a work that has been converted, abridged, re-arranged or altered from a prior or primary work.

Copyright will subsist in an adaptation to the extent of the new and original material contained in the adaptation which was not present in the original work. However, if copyright still subsists in the original work, the publication of the adaptation will be possible only with the licence or written consent of the copyright owner of the original work.

4. Translation

The term 'translation' is not defined in the Act. According to the Oxford dictionary 'Translation' means “*a written or spoken rendering of the meaning of a word or text in another language*”. It is an activity that aims at conveying meaning or meanings of a given linguistic discourse (work) from one language to another.

Copyright subsists in translation of a work.¹⁶ In translations, where “*brain, labour and skill have been used, or where some literary works are carried out, the person who did the said work in the translation is the author having copyright over the same.*”¹⁷ If the copyright in the original work still exist, written consent or a license from the copyright owner of the original work is necessary, before the publication can be made. However, a translation work which is created automatically, using any technology or machine for converting text from one language to another, may not be considered as copyrightable subject matter.

An adaptation or translation of a work may be registered, provided that it constitutes copyrightable subject matter. These works are a subset of subject matter categories, rather than a separate or distinct category of work. In other words, the new work/content that the author contributed to the prior work must fall within one or more classes listed in Section 13 of the Act.

¹⁶ Blackwood & Sons Ltd. v. Parsuraman, AIR 1959 Mad 410

¹⁷ Hafiz v. Abdurahiman Makhdoomi, 1999 KHC 605

5. Protection Prerequisites

For a literary work to be protected under the Copyright law, it must qualify certain necessary requirements which are discussed below briefly:

a) Originality

Originality is the *sine qua non* of copyright. A work that merely reflects an “*age-old practice, firmly rooted in tradition and so commonplace that it has come to be expected as a matter of course*” is not remotely creative. Exercise of efforts on the part of the author should not be trivial in nature and thus should not be a mere exercise of the mechanical function of copying the work of another. Variation must be substantial in nature than merely trivial.

A literary work is entitled to copyright protection, if it is an “original literary” work. The word original does not demand original or inventive thought, but only that the work should not be copied but should originate from author.¹⁸ *An ‘original’ must be a “product of an exercise of skill and judgment”, where ‘skill’ is “the use of one’s knowledge, developed aptitude or practiced ability in producing the work” and ‘judgment’ is “the use of one’s capacity for discernment or ability to form an opinion or evaluation by comparing different possible options in producing the work”.*

The Indian copyright law mandates that not every effort or industry, or expending of skill, results in copyrightable work, but only those, which create works that are somewhat different in character, involve some intellectual effort, and involve a minimum degree of creativity. The authorship involved in creation of work should be a result of substantial or distinguishable variation and not a result of trivial variation.

The Copyright Office will examine the work for determining whether it satisfies the originality requirement and this should not be interpreted in a manner that the work should be novel, distinctive, innovative or unique. Each case would be

¹⁸ *Supra* 8.

scrutinized on its individual merits to establish originality as per the current approach.¹⁹

b) Copyrightable Authorship and Subject Matter

For a work to qualify as a copyrightable subject matter under literary class, it must have *de minimis* literary expression in the form of text, notes or symbols. It can be expressed in the form of a book, novel, magazine, catalogue, computer programmes, tables, compilation, translation or adaptation of a preexisting work etc.

Copyright office examines the work to determine whether it constitutes copyrightable subject matter and examine the information provided in the application and also the work enclosed with the application, to ascertain whether the work qualify as literary work.

c) Publication

A Literary Work (except in the case of Foreign Literary Works) to qualify for copyright protection the work, apart from the requisites discussed above, should also qualify the following conditions:

- 1) The work is first published in India.
- 2) Where the work is first published outside India, the author is at the date of such publication must be a citizen of India.
- 3) Where the work is first published outside India and the author was dead at the date of such publication, the author at the time of his death must be a citizen of India.
- 4) In the case of an unpublished work, the author is at the date of making of the work a citizen of India or domiciled in India.

¹⁹ Balanced approach adopted by the Supreme Court in *Eastern book Company and Others v. D.B. Modak and Another*, 2008 (36) PTC 1 (SC)

6. Registration Prerequisites

Any Literary Work, which qualifies the Protection Prerequisites, may be registered with the Copyright Office, provided that it met certain registration prerequisites which includes but are not limited to as provided below:

a) Formality Check

On receipt of an application at the Office, a ‘Formality Check’ of application is carried out to ensure that the basic requirements (2 copies of work, Complete FORM-XIV Power of Attorney, prescribed fees etc.) are complied. If an application, fails the ‘Formality Check’, a letter, for furnishing the necessary requirements, is issued to the applicant at his/her communication address.²⁰ It is proposed to issue discrepancy related to communication on email ID of the applicant (if available) in near future to cut short the discrepancy removal period.

b) Waiting Period

A waiting period of thirty days, effective from the date of receipt of application is mandatory, for the purpose of receiving objection(s) from the person(s) who claims or has any interest in the subject matter of copyright or disputes the rights of the applicant to application submitted for registration.²¹ If no objection to such registration is received by the Registrar of Copyrights, the application is may be processed. However, this does not interpret that if any objection is received even after expiry of window period but before the registration of work shall not be entertained.

c) Form XIV

After the completion of waiting period, the application is processed for examination to examine whether it satisfies the statutory requirements laid down under the Act and the Rules.

The author or publisher of, or the owner of or other person interested in copyright in a literary work may make an application in FORM-XIV by online/offline mode

²⁰ In such cases, the status of concerned application(s) is updated as ‘Work Awaited’ on the website of Copyright Office.

²¹ Rule 70 (9) read with Rule 70 (10).

accompanied by the prescribed fees i.e. **INR 500 per work** in the form of payment gateway/DD/IPO, as specified in the Second Schedule of the Rules.²²

FORM-XIV is further divided into three parts; **(i) Application/Declaration Form (ii) Statement of Particulars (iii) Statement of Further Particulars.**

(i) Application/ Declaration Form

The applicant should mention the details of the person(s) and the notice, which was sent in compliance of Rule 70 (9), against Col. 2.²³ Further, the details of the payment of prescribed fee and the communication address²⁴ of the applicant should be mentioned in Col. 3 and 4 respectively. Against Col. 7, the list of enclosures (if any) should be mentioned. Lastly, only the applicant should sign on the application/declaration and should also mention the date and place.

(ii) Statement of Particulars (SoP)

The applicant should fill the details and the particulars entered therein are reflected on the Register of Copyrights (Office Copy) and Extracts from the Register of Copyrights (Applicant Copy). Tips for filling each Column (Col.) of SoP for literary work is provided in the table below:

Statement of Particulars	Particulars that may be entered
Col. 1	To be filled in the Copyright Office
Col. 2 (Mandatory)	The author or publisher of, or the owner of or other person interested in copyright in a literary work, who made the application for registration should provide his/her Name, address and Nationality.
Col. 3 (Mandatory)	The applicant should mention his/her interest in the copyright of the work i.e., whether <i>an author, owner or publisher etc.</i>
Col. 4 (Mandatory)	Class of the work is to be mentioned as:

²² Section 45 of the Act read with Rule 70.

²³ Not a mandatory requirement and if no such notice is required to be sent, 'NIL' may be indicated.

²⁴ In case of a foreign applicant, s/he should provide a communication address within India.

**Practice and Procedure Manual:
Literary Works**

Draft Copy

	<ul style="list-style-type: none"> • Literary for Literary Work or dramatic work, and • Software or Computer Programme for a 2.2 Computer Programme.²⁵
Col. 5 (Mandatory)	The title which appears on the work should be exactly mentioned here.
Col. 6 (Mandatory)	<p>The language which is used in the creation of the work should be mentioned and in case of multiple languages are used; all the languages should be necessarily mentioned.</p> <p>If Hindi language is used with English alphabets, the same shall be mentioned as Hindi only.</p> <p>In case of Computer Programme, only the programming language used in the work is to be mentioned. For eg. C, C++, C#, Java etc.</p>
Col. 7 (Mandatory)	<p>The name, address and nationality of the person(s) who has created/authored or was involved in the creation/authorship of work. In case, there is more than one author, the details of every such person should be mentioned.</p> <p>A firm/organization cannot be an author of work. Therefore the details of the person(s), who has actually created the work i.e. only natural person (human being), should be provided</p>
Col. 8 (Mandatory)	Status of the work at the time of application, whether published or unpublished should be mentioned.
Col. 9 (Mandatory if work is published)	If published, the name, address & nationality of the publisher is to be mentioned along with the year and country of publication.
Col. 10 (Mandatory if work is published)	In case of subsequent publication is made after the Year as provided in Col. 9, the name, address & nationality of the publisher is to be mentioned along with the year and country of publication.
Col. 11 (Mandatory)	<p>The name, address & nationality of the person(s) who hold(s) the various rights comprising the copyright in the work are required to be mentioned.</p> <p>In case the applicant himself intends to hold all the rights in the work, his particulars as already given against Col.2 may be mentioned.</p> <p>In case the applicant is a partnership firm, the names of all the partners and their respective shares in the copyright may be indicated.</p>

²⁵ *Supra* 9.

Col. 12 (Mandatory)	If any person is authorized to assign or licence the copyright, on behalf of the owner, the name, address and nationality of such person may be indicated. If not, 'NIL' or 'N/A' may be indicated.
Col. 13 – Col. 16 (Not Relevant)	These Columns pertains to the 'artistic work' and are irrelevant for the purpose of Copyright Application for Literary work and hence are to be indicated as 'NIL' or 'N/A'.
Col. 17 (Optional)	Applicant may mention any remarks relevant to the work, and its registration.

Lastly, only the applicant should sign on the **Statement of Particulars** and should also mention the date and place.

(iii) Statement of Further Particular (SoFP)

Despite the fact that this part of FORM-XIV is extremely relevant for the applications pertaining to the works of Adaptation or Translation of literary work, it is also necessary to be filled properly.

- If the work is not an adaptation or translation, only Col. 1 (a) is to be indicated as 'Yes' and the rest of the Columns, should be indicated as 'NIL' or 'N/A'.
- If the work is an adaptation or translation, Col. 1 (a) should be indicated as 'No'.
- Further, the applicant should provide the details identifying that the prior or primary work, of which translation or adaptation is opted, is a work in public domain or not and whether copyright still subsists in it.
- Subsequently, if the work applied for registration is a translation or adaptation and the copyright still subsists in the prior or primary work, then certain details relevant to the prior or primary work should be mentioned in Column 2.
- Applicant may mention any remarks relevant to the work (applied for registration) and the prior or primary work which is translated or adapted.
- Lastly, only the applicant should sign on the **Statement of Further Particulars** and should also mention the date and place.

d) Copies of Work

Every application for registration should be accompanied by two identical copies of the work. In case of application for computer programme, it shall be accompanied by two copies of source code and object code. **The Source code and Object code should be**

provided in digital medium i.e. machine readable format and not in written or text form on paper.

During examination of the work by the Examiners, the work enclosed with the application is cross-checked with the details/information provided in the FORM-XIV. Such determination may include but are not limited to as indicated below:

- (i) Title of the work as indicated against Col. 5 should appear on the work itself.²⁶
- (ii) Language of the work as mentioned in Col. 6 should be identical with the language used in creation or authorship of work.
- (iii) Name of the author as indicated against Col. 7 should appear on the work itself.²⁵
- (iv) Details of the publisher and publication, appearing on the work should not be in contradiction to those indicated against Col. 8-10 of SoP.²⁵

e) One Registration Application for one Work

An application submitted to the Office, for registration of copyright, shall be in respect of one work only.²⁷ Copies of Literary Work submitted in digital medium should contain only one work, which should be easily identifiable and in an accessible format. Literary work in the form of compilation, if submitted in non-digital or digital copy, should be compiled into an individual work.

f) Relevant Documents

Apart from the requirements discussed above, an application may be required to be submitted with certain documents, which are mandatory for the proper and complete filing of an application for registration of copyright. An inclusive list of such documents is provided below:

(i) Who should sign the application?

Every application made for the registration of copyright should be signed only by the applicant (not the Advocate), who may be an author or owner of right.²⁸ Each part of the FORM-XIV is to be signed by the applicant only.

²⁶ Not applicable in case of Computer Programme, as the work enclosed with such application may not necessarily bear the title or name of author as indicated against Col. 5 and Col. 7 of SoP respectively.

²⁷ Rule 70 (2)

²⁸ Rule 70 (2)

- If the applicant is more than one person, all applicants may sign the application. However, if the copyright is claimed under Col. 11 of SoP in favour of all the applicants/organization, it may not be necessary that application be signed by all the applicants.
- If the applicant is a firm/organization, the authorized signatory may sign the application on behalf of the applicant. In such cases, the applicant may submit **Board Resolution** in favor of the authorized signatory. However, this requirement may be examined on case to case basis.
- If the applicant is a partnership firm, the application is to be **signed by all the partners of the firm**. However, if the copyright is claimed under Col. 11 of SoP in favour of all the partners/firm, it may not be necessary that application be signed by all the partners.
- If an application is submitted by the attorney or any other individual, on behalf of the applicant, an original **power of attorney/notarized copy** to that effect should be submitted. However, the attorney cannot sign the application on behalf of the applicant.

(ii) No Objection Certificate

A No Objection Certificate (hereinafter referred to as ‘N.O.C’) or a deed of assignment is required to be submitted with the application in the cases which are (including but not limited to) as mentioned below:

- If the application is submitted by the owner of copyright, it shall be enclosed with an original copy of no objection certificate issued by the author in his favor.²⁹ It means that, if the details provided in SoP, indicates that the applicant is different from the person whose name appears as author of work against Col. 7 of SoP, a N.O.C in original should be enclosed with the application.
- In case of work of joint authorship, if one or more author applies for registration of copyright, a N.O.C in original from the author(s) other than

²⁹ Rule 70 (3)

the applicant(s), in favor of the applicant, should be enclosed with the application.

- If the application is submitted by the publisher of copyright, it shall be enclosed with an original copy of no objection certificate issued by the author in his favor.
- In case the publisher of work is different from the owner/author of work, a N.O.C in original from the publisher(s) in favor of the applicant should be enclosed with the application.
- In any case during the examination of application, if the interest of any person in subject matter of the copyright or any dispute with respect to the right of applicant to is identified, the applicant may be required to submit an original N.O.C from such person in his favor.
- In any of the aforementioned cases, if the author of work is deceased, the death certificate of the author and the N.O.C from all the legal heirs of the author/notarized copy of succession certificate should be submitted with the application.
- In case the death certificate of author cannot be procured otherwise, an affidavit to that effect, should be submitted by the applicant. However, its admissibility may be examined on case to case basis.

7. Foreign Work

For purposes of copyright registration, the term “foreign works” generally refers to works created by author(s) who are not citizens of India and/or works that were first published abroad. In case of unpublished works, the author was on the date of making of work, not a citizen or not domiciled in India. The foreign works are accorded same treatment as if they were Indian work, as provided under Chapter IX of the Act and may be registered with the Copyright Office of India, provided that the work qualifies the Protection and Registration prerequisites as enumerated under Indian Copyright Law.

8. Government Work

“Government work” as defined under Section 2(k) of the Act, means a work which is made or published by or under the direction or control of (i) the Government or any department of the Government (ii) any legislature in India or (iii) any Court, Tribunal or other judicial authority in India. Any work, which is a subject matter of the said definition, will be treated as a “Government work” and will be eligible for copyright registration only if the Government itself seeks for registration or the applicant has been granted authorization from the said Government department or the owner of work.

In case, a literary work submitted for registration bears the logo, name or any other description which insinuates that the work belongs to or is created under the direction or control of the above mentioned, a clarification may be requested from the applicant to clarify as to how the applicant is seeking registration in his own name.

9. Copyrightable Subject Matter

This part discusses and list down the works/content, (including but not limited to) that do qualify as a copyrightable subject matter and are eligible for registration under the Act.

- **BOOKS/ E-BOOKS**

Books written, in print or in any other digital form may be protected either in individual or joint authorship, i.e., if two or more persons collaborate with him.

- **NEW EDITIONS OF BOOKS**

New editions of books may also be protected by copyright, if there is a substantial change in the new edition and not just trivial changes.

- **NOVELS**

Novels are also a subject matter for copyright protection if these are fixed in written or in print or in any other digital form.

- **STORY**

Short stories are also covered under literary category if they are fixed into writing, in print or in any other digital form.

- **PLAYS**

As per section 2(h) of the Copyright Act, “dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film. Thus, Plays are copyrightable as original dramatic works, if these are fixed in writing or in print.

- **POEM**

A single poem or a book of poems will fall under the head of literary category.

- **SONG LYRICS**

Lyrics of songs are also eligible for protection as literary works and, therefore, are copyrightable.

- **CONCEPT NOTE**

If a concept note is definitive and not just an idea, but there is an expression and is reduced in writing, it is eligible for copyright protection. In Anil Gupta vs. Kunal Dasgupta, the Delhi High Court held that, an idea per se has no copyright. But if the idea is developed into a concept note fledged with adequate details, then the same is capable of registration under the Copyright Act.

- **LETTERS**

Letters are protected under copyright law if they are original literary works. Further, it is important to note that letters which are generic in nature will not be entitled for copyright registration.

- **LECTURES, SERMON AND SPEECHES**

Section 2(n) of the act states that lecture includes address, sermon and speech. These are copyrightable under literary category, only if they are reduced in writing, in print or in any other digital format.

- **TABLES**

Tables are copyrightable by virtue of Section 2(o) of the act which provides that literary works include tables also.

- **JUDICIAL PRONOUNCEMENTS**

These contain in a clear and precise language the legal principle deriving from the previous judgment, or the facts and circumstances which bring the matter within the framework of the principle or rule of law or practice. Therefore these are considered as original literary work entitled for registration if sufficient skill, labour and judgment is employed by way head notes, examples etc. Further it is to be noted that raw judgments delivered by any court of law are not copyrightable.

- **COMMENTARIES**

Commentaries are allowed for registration because the work includes appropriate skill and labor. This is because knowledge which is public domain is not used as it is; but the author has put sufficient efforts to explain such knowledge through examples, etc.

- **COMPILATIONS**

Compilations are entitled to be registered under literary category provided that sufficient skill and labor is employed. Neither 'table' nor 'compilation' is defined in the Act. However it is clear that these works include databases, as the definition of 'literary work' is inclusive rather than exhaustive. **Cambridge dictionary** defines the term 'compile' as “to collect information from different places and arrange it in a book, report or list.” **Oxford dictionary** defines the term 'compilation' as “The action or process of producing something, especially a list or book, by assembling information collected from other sources.”

Relying on the Latin maxim “*expressio unius est exclusio alterius*”, one may easily conclude that an express reference of compilations under the definition of literary works excludes the artistic compilations. It can be manifested that compilation of photographs/pictorial images does not qualify to be registered under the literary category.

- **DIRECTORIES/ENCYCLOPAEDIA/DICTIONARIES**

These are allowed to be registered as compilations under literary category. These are also considered as original in the copyright sense because sufficient skill, labour and judgement have been applied by the author.

- **RESEARCH THESIS/RESEARCH PAPERS/DISSERTATION**

These are considered as original literary works thus are allowed for registration. In such cases, NOC from the college or institution under whose direction and control the work has been created is required to be submitted in original in favour of the applicant.

- **COMIC BOOKS**

A comic book is a work where a story is depicted by means of some images in different frames. These may or may not be followed by words, dialogues, etc. Only the literal element can be protected under literary category and applicant should submit a declaration stating that he is applying for copyright registration for the literal element only. But in case the applicant intends to seek copyright in the images, then, he must submit a separate application for each of such image with the prescribed fee, under the artistic category.

- **WEBSITE CONTENT**

Only the literary element of the website is entitled for registration under literary category.

- **PANCHANG (ALMANAC)**

In **Lala Ramswaroop Ramnarayan and Sons versus Commr of C. Ex. & S.T., Bhopal**, it was observed that a Panchang displays information regarding tithi, nakshatra etc., substantially rather than just providing general mentioned on a calendar. Further it was observed that PANCHANG cannot be categorized as 'calendars' because less than 50% of the page space displays the date sequence of the calendar month. In **Khemraj Shrikrishandas vs Garg & Co. and Anr.** , it was observed that copyright exists in panchang.

- **TICKETS**

In **Rai Toys Industries V. Munir Printing Press (1982)**, the ticket used in the game of tambola is entitled for copyright as it involves, a form of tables of numbers requiring investment of skill, labour and originality in preparation.

- **QUESTIONNAIRE AND QUESTION PAPERS**

In **Aggarwala Publishing House V. Board of High School and Intermediate Education and Anr.**, it was held that copyright subsist in question papers.

- **BROCHURE/ CATALOGUE/ PAMPHLET**

The dictionary meaning of Catalogue is – “*it is a complete list of items, typically one in alphabetical or other systematic order*”. Pamphlet is defined as “*a small booklet or leaflet containing information or arguments about a single subject*”. And brochure is defined as “*a small book or magazine containing pictures and information about a product or service*”.

Referring to the above stated definition it is clear that they fall under the literary category. It is important to note that these works are either purely literary in content or a mixture of both literary and artistic content and may be subject to copyright registration, provided that the content/ work qualifies the protection and registration prerequisites. However, if such work contains purely artistic work, then the applicant should submit separate application for each of such image with the prescribed fee under the artistic category.

- **ACTIVITY BOOKS**

Activity books may be subject to copyright registration, provided that the content/ work qualify the protection and registration prerequisites.

- **TRANSLATION/ADAPTATION/ABRIDGEMENT OF LITERARY WORKS**

These may be protected under literary category only if it is original and the author of such work has employed sufficient labour, skill and judgment in it. For the purpose of registration, if the copyright in the original work still exist, written consent or a license from the copyright owner of the original work is to be submitted.

10. Non-Copyrightable Subject Matter

This part discusses and list down the work/content, (including but not limited to) that do not qualify as a copyrightable subject matter and hence are eligible for registration under the Act.

- **SINGLE WORD**

A single word cannot be provided copyright protection under literary work. The logic is that it involves no labour, skill and judgement. Also, if copyright is extended to a single word then it would eliminate the word from usual usage. In **Associated electronics v. Sharp tools, (1991)**, a single word can't be registered under literary category but may be registered under artistic category if it is represented in an artistic manner.

- **TITLES**

Titles per se are not protected under copyright law. It was held by the Supreme Court in **Krishika Lulla v. Shyam Vithalrao Devkatta (2016) 2 SCC 521**, that title of the works cannot be protected under copyright.

- **TWO OR THREE SENTENCES**

Two or three sentences on their own do not afford sufficient information, instruction or literary enjoyment to qualify as a literary work. Hence, these are not protected under literary category.

- **SLOGANS**

Slogans are not literary works. In **Pepsico Inc vs. Hindustan coca cola (2005)**, the court held that advertising slogans were prima facie not protectable under the copyright act. They could be protected under the law of passing off in case the plaintiff has made out a case.

- **CERTIFICATES**

Certificates may be considered as a formal document or written assurance which states an official fact and are generally used as evidence for certain purposes. Certificates are usually monotonous as it contains mere common words or formats which are generic in nature. Certificates are not considered as copyrightable subject matter as it falls under the narrow category of works in which the creative spark is utterly lacking or so trivial as to be virtually

non-existent. The presentation of such words or formats in the form of certificate does not qualify the *de minimis quantum* of ‘creativity’ or ‘originality’ under the copyright law.

- **BLANK FORMS**

Blank forms are not protected by copyright if they are designed for recording information but do not in themselves convey any information. The blank forms rule was first articulated in **Baker v. Selden, (1982)**. Hence, blank forms are not a subject matter of copyright as there is not originality involved.

- **WEBSITES**

Website usually consists of different rudiments which may be copyrightable subject matter that falls within any one of the classes of works set forth in Section 13 of Copyright Act, 1957. The component parts of website can be in different form of digital files such as text, tables, computer programmes, compilations including computer databases (“literary works”); photographs, paintings, diagram, map, chart or plan (“artistic works”); works consisting of music and including graphical notation of such work (“musical works”); “sound recordings” and “cinematograph films”. Website *as a whole* is not subject to copyright protection.

- **MATHEMATICAL FORMULAS/ALGORITHMS**

It does not qualify for copyright registration in literary category. In the case of a mathematical formula, it could be argued that since there is a standardized notation for expressing mathematical concepts, the idea and the expression are inseparable; therefore copyright protection does not apply.

- **POCKET DIARIES & CALENDARS**

In **Deepak printers v. Forward stationery mart and others (1981)**, the court ruled that there is no copyright subsists in a calendar even though certain pictures of deities and public personalities and some decorative features were incorporated in the calendar when no such separate copyright in them was claimed.

Pocket journals that contain, in addition to the usual pages, information of the type that appears in the calendars, postal information, and a selection of days and dates of the year are not considered literary works for the purposes of copyright.

- **RECIPE**

Copyright law does not protect recipes that are mere list of ingredients. However, copyright protection can be extended to a substantial literary expression - such as a description, explanation or illustration - that accompanies a recipe or formula or a combination of recipes, as in a recipe book/cook book.

- **LAYOUT ALONE**

There is no copyright in general layouts. In **Schove vs. Schmincke (1886)**, it was held that layout of coupon is not the subject of copyright.

- **FLOW CHARTS**

Charts are a subject matter protected under artistic category. Hence, flow charts being charts are entitled for copyright protection under artistic category instead of literary category.

- **FLASH CARDS**

Flash cards are covered under the category of artistic works but in a case where such flash card majorly involves literal content then it may be allowed to be registered under literary category.

- **SCREENSHOTS/SNAPSHOTS OF APP**

An **App** is a complete, self-contained computer program that is designed to **perform specific tasks**. Usually called 'Apps' for short, application programs are the most familiar forms of software and come in a very wide variety of types. An App usually has primarily dynamic content and is designed for user interaction. It may be used directly or indirectly in a computer or hand held electronic device.

An App may be registered as a computer program under literary works as provided under Section 2(o) of the Copyright Act, 1957. For this purpose applicant is required to submit an application for registration under software category, accompanied by the source and object code as provided under Rule 70 (5) of the Copyright Rules 2013.

It is important to note that the registration will cover any screen displays generated by that program, provided that the computer programme (code) generating the screen display is

submitted by the applicant. However, in such case the owner of the computer programme and that of the screen display should be the same.

Mere snapshots of screen displays of an app are not eligible for copyright protection.