

Government of India

Ministry of Commerce and Industry

Department of Industrial Policy and Promotion

COPYRIGHT OFFICE

**COPYRIGHT MANUAL ON REGISTRATION OF
ARTISTIC WORKS AND INCIDENTAL ISSUES**

OBJECTIVE

The General Objective of the “Copyright Manual on Registration of Artistic Works and Incidental Issues” being published shall be to bring uniformity and consistency of practice with respect to the procedures involved in the examination and registration of various Copyright applications pertaining to artistic works in administration of the Copyright Act 1957 and Copyright Rules 2013 made thereunder. It is further hoped that the manual will be useful for the examiners of the Copyright Office and the users of the system.

FOREWORD

“Copyright is a form of protection provided by the Indian legislature to authors/ owners of original works of authorship from the time the works are created and expressed in a tangible form”.

Copyright is a right which subsists in a number of different kinds of works such as literary, dramatic, musical or artistic works, sound recording and cinematograph films.¹ The Copyright Act 1957 governs the law related to the copyrights in India.

The **Copyright Act, 1957** as amended in 2012, supplemented by the **Copyright Rules, 2013**, with subsequent amendments, is the governing law for copyright protection in India. India is a member of the Berne Conventions and Universal Copyright Convention. The Government of India has also issued the International Copyright Order, 1999, according to this order; any work first published in any country - which is a member of any of the above conventions - is granted the same treatment as if it was first published in India.

As provided under the statute², registration of a Copyright is prima facie evidence of the Particulars entered in the Register of Copyright and documents purporting to be copies of any entries therein, or extract there from certified by the Registrar of Copyrights and sealed with the seal of Copyright Office, shall be admissible in evidence in all courts without further proof or production of original.

Certain exclusive rights³ are granted to the owner of the Copyright enabling the owner of the Copyright to do or to with hold from doing, certain acts in relation to the copyright works. These rights are broadly divided into moral rights (*those rights which relate to protection of personality of the author and integrity of this work, and similar matters*) and economic rights (*those rights which help the author to commercially exploit his creation*).⁴

PURPOSE

For greater understanding and transparency in the system, the manual attempts to enlighten the practice and registration procedure of the Copyright Office by categorizing the manual in three parts: concepts, the procedural requirements for registration of a work

¹ Definition of Work, as provided under Section 2 clause y of The Copyright Act 1957.

² Section 48 of The Copyright Act 1957.

³ Recognized by the Berne Convention, 1886 and the TRIPS agreement & Section 14 of the Copyright Act.

⁴ As laid down under Chapter IV Section 17-21 of the Copyright Act 1957.

and the office action involved as per the provisions of Copyright Act, 1957 and Copyright rules 2013 made thereunder, and issues pertaining/ incidental to registration of different Artistic works.

DEFINITIONS

Any work which is an original creation of an author or an owner fixed in a tangible form, is capable of being entered into the Register of Copyrights, irrespective of the fact that whether such work possesses any artistic quality or not.

The definition of Artistic work as laid down under Section 2 of the Copyright Act, is fairly comprehensive and descriptive. Copyright shall subsist in any original artistic work comprising of paintings, sculptures, graphics, cartoons, etchings, lithographs, photography, drawings, plans, maps, diagrams, charts, buildings, models of buildings, moulds and casts for sculptures.

1. Artistic works

Artistic work” means,— a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;

a [work of architecture]; and any other work of artistic craftsmanship; as provided under **Section 2(c)** of the Copyright Act.

1.1. Work of architecture

“**Work of architecture**” means any building or structure having an artistic character or design, or any model for such building or structure as provided under **Section 2 (b)**. In addition to this, according to **Section 13 (2) (iii)**, in case of work of architecture, the work shall be located in India.

Further, read with **Section 13(5)** in case of work of architecture, copyright shall subsist only in the artistic character and design and shall not extend to process or methods of construction.

1.2. Photograph

“**Photograph**” includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematograph film as provided under *Section 2 (s)* of the Copyright Act.

1.3. Engravings

“**Engravings**” include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs as provided under *Section 2 (i)* of the Copyright Act.

1.4. Work of Sculpture

“**Work of Sculpture**” includes casts and moulds as provided under *Section 2 (za)* of the Copyright Act.

1.5. Work capable of being used in relation to goods or services

A work capable of being represented graphically, which is capable of distinguishing goods or services of one undertaking from those of the goods or services of another undertaking shall be considered for the purposes of registration “**Work capable of being used in relation to goods or services**” such as brand symbols, labels logos, packaging, Cartoons etc.

1.6. Artistic Work applied for copyright registration which is capable of being registered as a Design under the Designs Act, 2000.

According to World intellectual property Organization and Section 2(d) of the Designs Act 2000, an Industrial Design constitutes the ornamental or aesthetic aspect of an article. It can be in a form of a two-dimensional or a three dimensional drawing of any article, such works, provided that it shall be in connivance with the provisions of *Section 15* of the Copyright Act 1957, which affirms that –

(1) Copyright shall not subsist under this Act in any design which is registered under the Designs Act, 2000 (16 of 2000).⁵

(2) Copyright in any design, which is capable of being registered under the Designs Act, 2000 (16 of 2000), but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.⁶

can be applied for registration under the Copyright Act 1957.

The aforementioned works shall be considered as “Artistic work”, for the purpose of registration of Copyright, irrespective of the artistic craftsmanship of the work, provided it is expressed as a single work.

How to file an application for registration?

There are two ways of filing any application for registration of Copyright:

- By the way of offline method, an application is made for registration of Copyright of an “artistic works” in the manner and format as provided under Chapter XVIII - Schedule I - Form XIV, Statement of Particulars, Statement of further Particulars of Copyright Rules 2013.
- By the way of online method, applicants can register themselves on the official website of the Copyright Office –

<http://copyright.gov.in/UserRegistration/frmLoginPage.aspx>

Click on the link “e filing of application”, and proceed thereon by filling up the online registration form XIV, Statement of Particulars, and Statement of further Particulars.

⁵ Section 15 clause 1, *Special provision regarding Copyright in designs registered or capable of being registered under the Designs Act, 2000 (16 of 2000)*

⁶ Section 15 clause 2, *Special provision regarding Copyright in designs registered or capable of being registered under the Designs Act, 2000 (16 of 2000)*

It is preferable that the applications for registration are filed online, as filling of online form is convenient, the options available for payment of the government fees for registration are effortless, and the unique Diary number is generated immediately, which makes the whole process more user friendly.

Government Fees for Registration of a Copyright in Artistic Category⁷

Artistic Works which are being used or capable of being used in relation to any goods or services	2000/- INR
Artistic Works which are not being used or are not capable of being used in relation to any goods or services	500/- INR

REGISTRATION DESIDERATUM

Once the application for registration is filled & submitted online, the same is mandatorily required to be sent, to the Copyright Office at, Plot no. 32, Boudhik Sampada Bhawan, Sector-14, Dwarka – 110075, New Delhi, within 30 days of filing of the online applications, along with all necessary documents, being: -

- ✓ *Duly filled Form XIV, Statement of Particulars, and Statement of further Particulars*, signed by the applicant⁸, in case of a company, proprietorship or a firm the person who is duly authorized to sign the application, along with the seal of the company, proprietorship or a firm.

The authority of the signatory shall be exhibited by a letter of Authority, or a Board resolution.

⁷ Serial No. 9, Second Schedule, of the Copyright Rules 2013.

⁸ In pursuance to Rule 70 clause 3, of the Copyright Rules 2013.

The application form shall not be acceptable, if signed by an attorney under whatsoever circumstances.⁹

- ✓ *Power of Attorney* signed by the applicant and duly accepted by the Attorney.
- ✓ *No Objection Certificate* from various other persons involved in the creation of work, in case the applicant is the author of the work No Objection Certificate is not required.
- ✓ *Search Certificate issued by the Trade Mark Registry*, in pursuance to *Section 45 of the Copyright Act, 1957 (proviso)*, in case of Artistic works used or capable of being used in relation to goods or services.

The application for registration of Artistic work used or capable of being used in relation to goods or services shall be filed within one year of the date of issue of the Search Certificate issued by the Trade Mark Registry.

- ✓ *An affidavit*, if the work is appearing to be capable of being registered under Designs Act.¹⁰

The contents of the affidavit shall include that the work is neither registered nor applied for registration under Designs Act 2000 in pursuance to :-

Rule 70(7) Copyright Rules 2013

Every application for registration in respect of an artistic work which is capable of being registered as a design under Designs Act, 2000, such application shall be accompanied by the statement in the form of an affidavit containing the following, :- namely

- a) *It has not been registered under Designs Act, 2000; and*
- b) *It has not been applied to an article through an industrial process and reproduced more than fifty times.*

Further the contents must also include that the work is not reproduced more than fifty times by any industrial process, in pursuance to :-

⁹ Rule 70 (3) of the Copyright Rules 2013

¹⁰ In pursuance to Section 15 of the Copyright Act, 1957, and Rule 70 (7) of the Copyright Rules 2013.

Section 15(2) of the Copyright Act 1957

Copyright in any design, which is capable of being registered under the Designs Act, 2000 (16 of 2000), but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person

- ✓ ***No Objection Certificate*** from the publisher if publisher is other than the applicant.
- ✓ ***No Objection Certificate*** by the person whose picture is appearing on the work.
- ✓ ***Two original & identical copies*** of the work. (***the title of the work shall appear on the work***)

The FORM XIV, Statement of Particulars, Statement of Further Particulars, shall be in the Format as prescribed under Chapter XVIII - Schedule I - Copyright Rules 2013. A format of the same is also given at-

<http://copyright.gov.in/frmformsDownload.aspx>

FORM XIV

Form XIV is a declaration of the applicant, whether he has complied with the prerequisites of filing of a registration application.

- The applicant must send notices to all the interested parties, prior to filing of the Copyright application and submit all necessary details thereof.¹¹
- The applicant shall provide the details of the requisite payment made.
- Further the applicant shall submit the communication address.
- Lastly, the applicant shall list out the documents submitted along with the application.

¹¹ In accordance with rule 70 of the Copyright Rules, 2012

STATEMENT OF PARTICULARS

To be duly filled and signed by the applicant.

STATEMENT OF PARTICULARS		
COLUMN NO.	DETAILS	APPROPRIATE DETAILS TO BE FILLED BY THE APPLICANT
Column 1	Registration number	Registration number is not a mandatory column; it is to be filled by the Copyright Office once the work is entered into the Register of Copyright.
Column 2 (Mandatory)	Name, Address and Nationality of the Applicant	The correct and full details with respect to the author or owner or any other person interested in copyright in an artistic work, who has made the application for registration shall be submitted.
Column 3 (Mandatory)	Nature of the applicant's interest in the copyright of the work	The applicant shall indicate their nature of interest in the copyright of the work i.e., whether an author or an owner/publisher.
Column 4 (Mandatory)	Class and description of the work	The applicant shall mention appropriate class of work:- <ul style="list-style-type: none"> •Artistic – in case of registration of Artistic works. •The applicant is also required to indicate whether the Artistic work is used or capable of being used in relation to goods and services or not.
Column 5 (Mandatory)	Title of the work	The title which appears on the copy of the work submitted along with the applications.
Column 6	Language of the work	All the languages which are collectively used, in creation of the work shall be mentioned. Applicant can also mention the language in which the Title of the work is mentioned. In case of Artistic work this column may also be indicated as "NIL" in case no language is used.
Column 7 (Mandatory)	Name, address and nationality of the author and, if the author is deceased, the date of his decease	Correct and appropriate details of the Author (the person who has actually authored or was involved in the authoring of work. There can be more than one persons who can jointly and severally be the author of a work. A firm/organization cannot be an author of work by no means; this column shall always be filled with the name & details of a person.
Column 8 (Mandatory)	Whether work is Published or Unpublished	Status of the work at the time of filing the application, whether published or unpublished shall be indicated.
Column 9 (Mandatory if published)	Year and country of first publication and name, address and nationality of the publishers	Publisher details shall be submitted along with the year of Publication.

Column 10 (If applicable)	Years and countries of subsequent publications, if any, and names, addresses and nationalities of the publisher	Details of subsequent publisher shall be submitted along with the latest year of publication.
Column 11 (Mandatory)	Names, address and nationalities of the owners of the various rights comprising the copyright in the work and the extent of rights held by each, together with particulars of assignment and licenses, if any	The name, address & nationality of the persons who holds the various rights comprising the copyright in the work are required to be mentioned. 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.
Column 12 (If Applicable)	Names, addresses and nationalities of other persons, if any, authorized to assign or license the rights comprising the copyright	If any person or persons other than the persons indicated in column 11 to whom author or applicant intends to authorize 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.
Column 13 (Mandatory)	If the work is an "artistic work", the location of the original work, including name, address and nationality of the person in possession of the work. (In the case of an architectural work, the year of completion of the work should also be shown)	Location of the original work, including name, address and nationality of the person in possession of the work shall be indicated.
Column 14 (Mandatory if the work is capable of being used in relation to any goods or services)	If the work is an 'artistic work' which is used or is capable of being used in relation to any goods or services, the application shall include a certificate from the Registrar of Trade Marks in terms of the proviso to sub-section (1) of section 45 of the Copyright Act, 1957.]	Details of Search Certificate issued by the Trade Mark Registry shall be indicated.
Column 15 (Mandatory if applicable)	If the work is an "artistic work" whether it is registered under the Designs Act 2000. If yes give details.	Details with respect to Registration under Designs Act need to be indicated if necessary.

Column 16	If the work is an “artistic work” capable of being registered as a design under the Designs Act 2000, whether it has been applied to an article through an industrial process and , if yes, the number of times it is reproduced.	Details with respect to publication of that particular design shall be indicated.
Column. 17	Remarks	Applicant may mention any remarks relevant to the work, and its registration.

STATEMENT OF FURTHER PARTICULARS

The statement of Further Particulars, is primarily a declaration regarding the originality of the work.

- If the work is not an adaptation, Column 1 (a) is to be indicated as ‘Yes’ and the rest of the Columns, shall automatically be indicated as ‘N/A’.
- If the work is an adaptation, Col. 1 (a) shall be indicated as ‘No’.
- Further, the applicant should provide the details identifying that the prior or primary work, of which adaptation is opted, is a work in public domain or not and whether copyright still subsists in it.
- If in any such work, copyright subsists the applicant shall submit a No Objection Certificate in favor of the applicant, from such Copyright holder.
- Further, if the work applied for registration is an adaptation and the copyright still subsists in the prior or primary work, then certain details relevant to the prior work shall be indicated with respect to Column 2.

TERM OF COPYRIGHT

Copyright shall subsist in any literary, dramatic, musical or artistic work published within the lifetime of the author until sixty years from the beginning of the calendar year next following the year in which the author dies.

Explanation- In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.¹²

ISSUES PERTAINING/INCIDENTAL TO REGISTRATION OF DIFFERENT ARTISTIC AND MUSICAL WORKS

1. Works neither used nor capable of being used in relation to goods or services

Works neither used nor capable of being used in relation to goods or services shall include, but not limited to paintings, photograph, sculpture, drawing, sketches, maps, charts etc.

2. Works used or capable of being used in relation to goods or services

Works used or capable of being used in relation to goods or services shall include but not restricted to labels, symbols, marks or logos, associated with a brand or a business.

3. How do we differentiate between artistic works capable of being used in relation to goods or services and artistic works which are not capable of being used in relation to goods or services?

Such artistic works which have potential to eventually turn into Trade Marks, or such marks which are outwardly associated with any brand identity represented by a business, protected under trademarks, are treated as artistic works capable of being used

¹² Chapter V, Section 22 of the Copyright Act 1957.

in relation to goods or services, for Copyright registration purposes and require submission of Search Certificate (TM-C) issued by the Trade Mark Registry, in pursuance to Section 45 proviso of the Copyright Act 1957. These include, brand logos, labels, packaging, designs potentially applicable in relation to goods or services, cartoons & figurative drawings potentially applicable in relation to goods or services, and henceforth. Rest may be treated as Artistic works which are not capable of being used in relation to goods or services, for which Search Certificate is not required to be submitted, such as paintings, drawings, sculptures, lithographs, etc.

4. If a model appears on the Artistic work

If a model or a picture of a person appears on the Artistic work, the applicant shall be required to submit a No Objection Certificate from the model.

If the applicant claims that the model or a picture of a person appearing on the Artistic work is fictitious or purchased or downloaded, the applicant may be required to submit an affidavit stating the same in this regard, or a consent letter or a purchase agreement between the parties.

5. Cartoons and animation characters.

Cartoons and animated characters have a potential to be associated with a business or a brand, they can be applied on goods and can be commercially sold for monetary gains, or they can be applied in an animated game, or they can be used as mascots in events and brand promotion. Certain examples for such works are McDonald of the food chain brand Mc Donalds, Pillsbury animation, Vodafone zoo-zoos, hence for any such artistic work, submission of Search Certificate is mandatory along with a fees of Rupees 2000/- for registration.

6. Board/card games

Board Games/ Card games are registered under Artistic as well as Literary category as it has both Artistic and Literary characteristics, However, they cannot be protected in its entirety. A board game author may seek the registration for the graphics & pictures in

the board game under Artistic category, and the attributes of the protagonists and the instructions/rules of the game under literary category. Board games and Card games are Copyrightable under artistic category to the extent of the Artistic characteristics involved in the work. Board games and Card games may be approved for registration only if expressed as a single work. Any work of similar nature, appearing to be different/separate work may be considered as multiple works and in such cases applicant shall be required to apply for registration separately. The copyright law only protects the particular manner of the author's expression in artistic or literary form but does not cover the idea of the game, or methods of playing.

7. Is Search Certificate mandatory for registration of board/card games under artistic category?

Search Certificate is required for registration of board/card games as they may be used along with any brand whose logo or label appears on the work for commercial purposes. Search Certificate shall not be required, when such works are non-commercially used or are used for purely educational purposes.

The applicant may be required to submit an affidavit in this regard.

8. Artistic work comprising of government logos, labels, symbols or emblems

For registration of any artistic work comprising of, in full, or in part, any government logo, label or symbol, shall not be eligible for registration of copyright unless the applicant is able to submit a No Objection Certificate from the concerned authority or department and clarifying how the work is a creation of author's own skill and labour.

Any such artistic work shall be processed for registration, only if it is in connivance with the provisions of The Schedule, The Emblems and Names (Prevention of Improper Use) Act, 1950 and not in contravention with any Act or Rule applicable in India.

9. Certificates

A Certificate is an official document attesting a fact. For any work to be a copyrightable subject matter is to be created by the exercise of labour, skill and judgment of the author. Copyright does not subsists in certificates of any kind as Certificates are merely recordable documentation and neither possess any original Artistic skill or labor; nor does it express the uniqueness of the author's creativity. Mostly all certificates appear to be in a basic generic format.

10. A Photograph or a portrait of a person

An application for registration of a Photograph or a portrait of a person is copyrightable if, a No objection certificate of the person who appears on the work is provided, along with the applications.

As an exception No Objection Certificate in case of portraits of public figures is not required if the portrait is not objectionable in nature.

In case any rights to a photograph or portrait of a person are withheld by any organization or a trust and such photograph or a portrait of a person is applied for registration under artistic category, the applicant shall required to submit a No Objection Certificate from such organization or trust.

11. Collage

A collage is also a copyrightable subject matter. The applicant is required to submit a No Objection Certificate from the person/persons appearing in the collage if any.

12. Language of the Artistic work not mentioned with respect to Column 6 of the Statement of Particulars

While filing up the Statement of Particulars, Column 6, Language of the work, is a mandatory column. The applicant is required to not leave this column vacant. With respect to artistic works the applicant shall indicate all the languages used which are apparently visible on the work. In cases where no language is apparently visible on the

work, the applicant shall mention the language in which the title of the work is depicted. However this column may also be indicated as “NIL”, if no language is used at all in creation of the work.

13. Artistic works capable of being registered under Designs Act 2000.

Every Design is a drawing, but every drawing is not a design. For any work which qualifies to be a Design in accordance with the definition of Design under Section 2(d) Designs Act and is apparently capable of being registered under Section 10 of the Designs Act, but is applied for registration of copyright under Artistic category, shall be approved for registration only after submission of an *affidavit* stating that the work is not applied for registration under Designs Act and it has not been reproduced more than 50 times by the applicant. Any such work shall be submitted as one work per application.

14. Architectural Drawings

An architectural drawing is a drawn expression of the Architect’s original thoughts, expressed using technical signs, symbols, and graphical representations together to form an instruction to build a structure. In entirety, architectural drawings or plans are copyrightable subject matter.

15. Photographs of Stage Arrangements

Photographs of the Stage Arrangement can be copyrighted under artistic category. Each photograph shall be considered a separate work and separate applications shall be filed for each work.

16. Compilation of Artistic works

There is no provision for registration of compilation of artistic work; therefore for protection of such works under Artistic category, every work is to be filed as a separate and independent application, subject to fulfillment of registration prerequisites.

17. Title of the work

Title of the works cannot be protected under copyright held by the Supreme Court in *Krishika Lulla v. Shyam Vithalrao Devkatta (2016) 2 SCC 521*.

18. Maps

Copyright provides for protection of author's original creation, "map" may include cartographic representations of area, such as terrestrial maps and atlases, marine charts, celestial maps and such three-dimensional works as globes and relief models. Geographical Maps can be protected under Copyright, provided that the applicant shall be able to furnish a No Objection Certificate from the Source of Creation or the Survey of India as a proof of authentication.

19. Pamphlets & posters

Posters and Pamphlets include both artistic as well as literary characteristics. They are entitled for copyright protection under artistic category only to the extent of the Artistic content of the work. The literary content in the Posters and Pamphlets shall be separately protected under literary category.

20. Sculptures & moldings

Sculptures, moldings or 3 dimensional models are subject matter of copyright protection. For the purpose of feasibility photographs or images of such sculptures are treated as original works. The applicant shall be required to mention in the application form that he/she is seeking protection for the Sculpture or 3 dimensional models and not just the photograph.

21. Painting

Painting is an artistic work whether or not it possesses any artistic quality [Section 2 (c) (i) and Section 13 (1) (a)]. For protection- a painting must be original and not a

mere copy of another painting. The painting is not defined. However, painting without a surface is not painting. A painting must be on a surface of some kind.

22. Drawing

A drawing (including a diagram, map, chart or plan) is covered by the definition of artistic work **Section 2 (c) (i)** and accordingly if it is original it is entitled to copyright protection as an artistic work irrespective of its artistic quality. A drawing is not defined under the Copyright Act except as stated above. It will therefore, mean any kind of drawing including mechanical or engineering.