

V. Legislation in India

The Indian Copyright Act, 1957 came into effect from January 1958. This Act has been amended five times since then, i.e., in 1983, 1984, 1992, 1994 and 1999. The Copyright Act Amendment Bill 2012 has also been passed and presently awaits final Presidential approval. The Copyright Act, 1957 protects original literary, dramatic, musical and artistic works and cinematograph films and sound recordings from unauthorized uses.

The Copyright Act is available at
[<http://copyright.gov.in/Documents/CopyrightRules1957.pdf>]

Certain important sections of Indian Copyright Act are quoted [Annex 1]

The Indian Copyright Act, 1957 came into effect from January 1958. This Act has been amended in 1983, 1984, 1992, 1994 and 1999 and the Amendment Bill has also been passed in 2012. A special committee was constituted by the Government of India in order to revise the Act. The Copyright Act Amendment Bill 2012 currently awaits final Presidential approval.

The Copyright Board is a quasi-judicial body, constituted in September 1958 and functions under the Ministry of Human Resource Development. The jurisdiction of the Copyright Board extends to the whole of India. The Board is entrusted with the task of adjudication of disputes pertaining to copyright registration, assignment of copyright, grant of licences in respect of works withheld from public, unpublished Indian works, production and publication of translations and works for certain specified purposes. It also hears cases in other miscellaneous matters instituted before it under the Copyright Act, 1957. The meetings of the Board are held in five different zones of the country. This facilitates administration of justice to authors, creators and owners of intellectual property including IP attorney's near their place of location or occupation. The Copyright Board was reconstituted under the Chairmanship Justice Ramesh Chandra Chopra (retired) for a period of five years or till further orders, whichever is earlier, with effect from the 15th July, 2011.

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Complexities emerge over the subject of 'ownership' and intellectual property in ICH where individual innovations are often fore-grounded within a traditional, collective knowledge base of the community. In these cases it is difficult to ascertain the 'authorship' since many performing/craft traditions are based in community knowledge and individual artists may not have claim to the product.

For instance, traditional designs and patterns are often freely appropriated by contemporary artists, designers or dealers. Many artists also use the skills of the craftspersons to create art works based on traditional crafts. In such cases, the ambiguities regarding the ownership of ideas and knowledge become magnified and it becomes more difficult to design and implement suitable intellectual property rights policies. The IP issue here is related to the role played by customary or cultural interests. This implies: Integration of communities' cultural interests in ICH management through customary laws, guidelines, and protocols.

There is also lack of clarity regarding copyrights of oral histories.