

INTELLECTUAL PROPERTY LAWS RELATED TO MUSICAL WORK [September 2009]

It will not be incorrect to say that music, song and dance is part and parcel of Indian cultural life and the same is very finely depicted in films and theatre. Musical work in India has always been treated as part and parcel of our daily life and was never looked upon as ways and means to make money. However, with the advent of commercialization, the knowledge including the traditional music and musical work has acquired great importance. The Musical industry has become money making industry worth billions. However, a number of cases have come out in recent times where people have modified the original work of the author of the musical work to an extent and have claimed the work to be their own work. This act of theft or should I say blatant act of theft and proclamation and sale has not only deprived the original authors of the musical work of their dues but has also created a group of so called musical leaders whose survival is based on unholy nexus between them and other managers of musical industry. It is time we enlighten the real creators of musical work of their legal right provided to them under the law of the land. This is an attempt in that direction and the same is as below:

Laws in the Copyright Act, 1957 related to Musical Work:

Musical tones and related stuff and music albums (musical work and sound recordings) are protected under **section 13 of the Copyright Act, 1957.**

Section 45 of the Act provides for the registration of the work for protection under the Act.

Section 22 of the Act provides 60 years as the term of copyright in the musical works.

Section 55 of the Act provides for the civil remedies in case of infringement of copy right work. Under this section when copyright in any work has been infringed, the owner of the copyright shall be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for infringement of a right.

Section 57 of the Act provides for the Author's special right to copyright

Protection in case of any distortion, mutilation, modification, or any other act in the author's work, even after the assignment of the work either wholly or partially.

Section 63 of the Act provides that if any person knowingly infringes or abets the infringement of any copyrighted work, such person shall be punishable with imprisonment for a term which shall not be less than 6 months but which may extend to 3 years and with fine which shall not be less than 50,000 rupees but which may extend to 2 lac rupees.

Section 51 Copyright in a work is deemed to be infringed when any person, without a license granted by the owner of the copyright does anything, the exclusive right to do which is by the Act conferred upon the owner of the copyright. Where a person has a copyright in literary/musical work, and any person produces or reproduces the work or any substantial part thereof in any material form, he is committing an infringement of copyright.

It is not necessary that the alleged infringement should be an exact or verbatim copy of the original but its resemblance with the original in a large measure is sufficient to indicate that it is a copy.

The piracy in an alleged infringing work may be detected by making a careful examination of it to see whether any of the deviations and mistakes, which license permits, in the original has been reproduced into the alleged infringing copy.

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