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Your Art, Your Rights: Navigating Intellectual Property Protection in India

-Nishnat Eshanya

I. Introduction

Being a creative artist, whether it is a sculpture, a painting, a melody, or any type of online art, the thought that your art can transcend borders without your control can be unsettling. Every artist wants to share their art, but at the same time, they want the assurance that their art is not going to be misused, replicated, and/or wrongly attributed to someone else. This is where the Intellectual Property Rights (IPR) come into play, serving as a protective mechanism for artists, innovators, and businesses alike.

Knowing more about IPR has become the need of the hour, especially in a country like India, where online platforms and artistic sectors are growing at a very fast pace. Every single thing, from a social media posting to a song, from a handmade design to a technological invention, can be replicated by someone else. Unless a certain protection is available, the artist may find it very difficult to admit that they are the creator of such a work. The IP laws available in India, as per international norms, have certain provisions that can protect such creative works; however, most young artists, students, and entrepreneurs are not even aware of these provisions. This blog post has been written to make readers aware of the basic requirements of Intellectual Property Rights in India.

II. Classification of Intellectual Property in India

- 1. Copyright:** It protects original literary, artistic, musical, and dramatic works, as well as films and sound recordings. It gives creators the right to control the reproduction, distribution, and attribution of their work.

2. **Patents:** Patents protect new innovations that involve an inventive step and are capable of industrial application. They give inventors exclusive rights to use, sell, or license their inventions for a limited period.
3. **Trademarks:** Trademarks protect distinctive signs, names, logos, or symbols that identify goods or services. They help prevent others from creating confusion in the market and safeguard brand identity.
4. **Designs:** Designs protect the unique visual appearance of products, including shapes, patterns, and ornamentation. They do not cover the functional or technical aspects of a product.
5. **Geographical Indications (GI):** GIs recognize goods whose quality, reputation, or characteristics are linked to a specific region. Only producers who follow recognized standards in that region can use the GI label.

III. Legal Framework of IPR in India

- 1) **Copyright Act, 1957¹** – This Act protects original literary, artistic, musical, and dramatic works, along with films and sound recordings. It grants economic rights, allowing creators to reproduce, distribute, or sell their works, and moral rights to claim authorship and prevent distortion of their work. Remedies include civil injunctions, damages, and criminal penalties for infringement.
- 2) **Patents Act, 1970²** – This Act protects new inventions that are novel, inventive, and industrially applicable. It gives inventors exclusive rights to make, use, sell, or license their inventions for a limited period. Remedies for infringement include injunctions, damages, and accounts of profits.
- 3) **Trade Marks Act, 1999³** – This Act protects distinctive marks, logos, names, or symbols that identify goods or services. It prevents others from using marks that are confusingly similar to it. Remedies include injunctions, damages, and seizure of infringing goods.
- 4) **Designs Act, 2000⁴** – This Act protects the unique visual appearance of products, such as shapes, patterns, or ornamentation, but not functional features.

¹ Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).

² Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India).

³ Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999 (India).

⁴ Designs Act, 2000, No. 16, Acts of Parliament, 2000 (India).

Remedies include civil action for infringement and the right to prevent copying or commercial exploitation of the work.

- 5) **Geographical Indications of Goods Act, 1999**⁵ – This Act protects products whose quality, reputation, or characteristics are linked to a specific region. It enables authorized users to prevent unauthorized use and provides civil remedies for infringement.

IV. How Artists Can Protect and Enforce Their Work

For artists, it's not enough to know the law; they must be ready to prove the ownership and originality of the work. Proper documentation forms the vital means for effective enforcement of their rights. Evidence could include copyright registration (since copyright registration is not required but silently boosts your claim), drafts, sketches, or version control digital files, date-stamped emails, social media posts, website page captures, or contracts and invoices related to commercial uses. Keeping this evidence allows you to prove that the work is truly yours and forms the backbone upon which a legitimate legal or administrative challenge regarding misuse can be developed. A landmark judgment is *Indian Performing Rights Society Ltd. v. Sanjay Dalia & Ors.*, where the Supreme Court granted interim injunctions restraining the unlicensed use of copyrighted songs and also ordered damages to be paid to the right holder, which became possible due to the availability of the documents and proof of authorship.

By taking practical steps to prove this evidence, artists can therefore protect their work. You can send a cease-and-desist notice, demand removal from online platforms, claim damages or profits, claim recognition of authorship, obtain permanent injunctions to bar future misuses, and, in cases of piracy or counterfeiting, even pursue criminal action. These remedies ensure that your work – paintings, digital art, music, sculptures, and many other outputs legally yours and hinder others from unauthorized use. Strong evidentiary practices can be combined with proactive enforcement by the artist to share and commercialize his works while safeguarding both moral and economic rights.

⁵ Geographical Indications of Goods (Registration & Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India).

V. Conclusion

Intellectual Property Rights are essentially tools that creators have to protect their work and claim ownership in the rapidly growing and digitalized creative economy. Laws in India, such as the Copyright Act, Patents Act, Trade Marks Act, Designs Act, and Geographical Indications Act, give way to show how to protect artistic, technological, and cultural creations. Recognizing these rights, which provide a way forward through either registration, documentation, or licensing, is thus the best way for artists, writers, musicians, designers, and innovators to protect their work and derive benefit from it.

Still important are the effective tools available for creators, like documentation, digital takedowns, cease-and-desist notices, and damage claims that actually help creators in making an end to misuse and providing proper acknowledgment to the authors. By taking early measures, artists can move ahead with the assertion of ownership, infringement prevention, and confidently sharing or commercializing their creations while protecting both their moral and economic rights.