

Copyright law of India

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What is Copyright?

“The exclusive right given by law for a certain term of years to an author, composer etc. (or his assignee) to print, publish and sell copies of his original work”

(Oxford English Dictionary)

The Copyright Act 1957 (as amended by the Copyright Amendment Act 2012) governs the subject of copyright law in India. The Act is applicable from **21 January 1958**. The history of copyright law in India can be traced back to its colonial era under the British Empire. The Copyright Act 1957 was the first post-independence copyright legislation in India and the law has been amended six times since 1957.

Why Copyright?

- *Fair Play*: Reward creative efforts. “*Thou shall not steal*”
- Exclusive rights for limited time → *Negative right*: prevent copying/reproduction
- Copyright is **necessary** → encourage dissemination of copyrighted works = public interest

Copyright Act 1957 – Main Features

Valid from **21 January 1958**

Created Copyright Office and Copyright Board

Introduced ***civil and criminal remedies*** against infringement

Copyright Act 1957 – Main Features (II)

- **Performing rights societies'** rights (for instance, music royalties)
- **Definition of categories** in which copyright actually subsists
- **International copyright**
- **Definition** of infringement

Term of Copyright

Depends on nature of work/owner of copyright and whether the work has been published

Most works: **60 years**

Broadcast Rights: **25 years**



Case laws

J. Mitra Company Pvt. Ltd. Vs. Span Diagnostics— CS (OS) No. 2020/2006 - Judgment dated 22.02.2008 passed by Ld. Single Judge of Delhi High Court, Hon'ble Mr. Justice Sanjay Kishan Kaul

- J. Mitra developed a highly qualitative fourth generation Hepatitis – C diagnostic kit
- which enable the disease to be diagnosed within 10-15 days after the virus enters the human body
- J. Mitra had applied for a patent on this product before the Indian Patent Office as far back as in 2000
- The Patent disclosed an invention which comprised of a specific set of antigens used in specific proportions and the device built in a unique manner

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Case laws

J. Mitra Company Pvt. Ltd. Vs. Span Diagnostics (Contd..)

- Span Diagnostics copied the HCV Tridot product
- Span had initially opposed the grant of patent and the patent office in India had rejected the objections and had granted the patent to J. Mitra in 2006
- After the grant of the patent, J. Mitra filed a case against Span Diagnostic seeking injunction against the manufacture of Signal HCV which was the copied device of Span – Argued that antigens are commonly known and the methodology is nothing but protein sequences

Case laws

J. Mitra Company Pvt. Ltd. Vs. Span Diagnostics (Contd..)

- Vide judgment dated 22.02.2008, Hon'ble Mr. Justice Sanjay Kishan Kaul of the Delhi High Court has held that:
 - Sufficient documents were filed showing the research conducted by J. Mitra.
 - The international preliminary examination report issued by the PCT Office does not have a bearing on the validity of the patent. The validity patent has to be examined by the court considering the merits of the case.
 - That the defendant showed no research or development towards its infringing product