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Analysis of IP Laws around the world with Similarities and Differences

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Intellectual Property Rights (IPR), is an unequivocal but most reliably interesting asset on grounds of intangible assets where the grandiose developers with intellectual rights for their impeccably worthy invention or development. The global comparison towards the various types of Intellectual Property is the idea towards the article. The correlative structure of Intellectual Properties in the leading countries of India, the UK, and the USA are discussed efficiently. The strategy of Intellectual Property instruments should complement the strategy of the business. The decision-makers of an organization with top-tier management will leverage Patents, Copyrights, Trademarks, and industrial designs to achieve the business's objectives on a larger picture of visualization and faultless execution. The central objective of a business within an organization is to guide and elevate its operations profitably. This is possible only by gaining new customers and retaining the previous ones. The present generation of, customers induces a purchasing decision based on price, quality, and product design. A breathtaking move might capture the customers' interest and will cater to protection through the Intellectual Property laws abiding it. It is imperative to understand the instruments of IP like Patents, Trademarks, Copyrights of the other countries before formulating a business strategy.

Keywords: *international comparison, copyright, trademark.*

INTRODUCTION: COPYRIGHT LAW AROUND THE WORLD

Copyright laws protect an original work of an owner from getting infringed by any person as well as, and an original owner will be given an exclusive right over the creative work to distribute, copy, display, and perform. when an original work is created it gains automatic protection¹. Copyright laws not only deals with protection as well as the liability of the person who infringes, but they are also territorial in nature and there are some difference and similarities around the world.

GLOBAL COPYRIGHT LAW

When we speak about Global copyright law it is the mixture of international treaties and individual nations' copyright laws, as the territorial nature of copyright laws there must be some understanding between them here where the International copyright treaties play a key role.

BERNE CONVENTION, 1886

When comes to copyright conventions Berne convention is one of the earliest and most important, it deals with minimum copyright protection of **literary and artistic works**² of the original creators which is signed in 1886. Berne convention revolves around mainly **Three basic principles which are national treatment, automatic protection, and independence of the protection** Alongside copyright protection Berne convention also provides rights to the creators of literary and artistic works Rights on Translation, Reproduction, Performance, and Adoption.

THE SUBJECT MATTER OF COPYRIGHT IN INDIA, THE USA, AND THE UK

Copyright protection throughout the world is mostly the same yet there are a few differences,

¹ Berne Convention, 1886

² Berne Convention, 1886, art. 2(1)

Copyright law in India: In India, copyright protection is given to **literary, dramatic, musical, and artistic works, also to cinematograph films and sound recordings**³. These must be made by the original and the first owner can be the author or creator of the work⁴. India copyright law also gives bundles of exclusive rights only to the owner of the work like reproduction, adaptation, publication, translation, etc.

Copyright law in the USA: Law regarding IP, especially on copyright is always given much importance in the USA. Compared to other countries American copyright law is much more elaborate and specifies things in much detail when we deal with subject matters which can be copyrighted. *“American law specifies Literary, Music, Dramatic, picture, motion pictures, graphics, sculpture, sound recording pantomimes, choreographic, artistic works*⁵, *American copyright law also deals with published, and unpublished works and with restored works in detail”*⁶

Work-related to derivative and compilation has been exclusively given in American copyright law in detail⁷, work is valid only if it must be lawful and material contributed by the author can only be copyrighted and the preexisting work cannot be copyrighted. The creators of copyrighted works enjoy exclusive rights to reproduce and distribute. Derivate, display, and perform.

Copyright laws in the UK: One of the earliest countries where the demand for copyright protection started centuries ago, it all began when **Regulation for the printing press**⁸ from there it has evolved a lot. Laws are much similar to Indian law when comes to subject matters of copyright apart from that it gives subject matters like a database⁹, broadcast, and satellite broadcast¹⁰. When comes to ownership and authorship Britain copyright laws give much more clarity in detail on Authorship, co Authorship and joint Authorship of work.

³ Copyright Act 1957, s 13(2)

⁴ Copyright Act 1957, s 17

⁵ Copyright Act 1976, s 102

⁶ Copyright Act 1976, s 104

⁷ Copyright Act 1976, s 103

⁸ Licensing of the Press Act, 1662

⁹ Copyright, Designs and Patents Act 1988, s 3A

¹⁰ Copyright, Designs and Patents Act 1988, s 6

DURATION OF COPYRIGHT GLOBALLY

When comes to the duration of the copyright is given to the author's lifespan with additional years these additional years vary from country to country, for instance, when comes to **WIPO given an author's life span with additional 50 years.**

Duration of copyright in India: Works related to literary, musical, dramatic, and artistic *Duration for the protection of copyright is given as the life span of the author plus 60 years*¹¹ rest of the works are 60 years from the date the work is published

Duration of copyright in the USA: For work which is created after 1st January 1978 copyright protection is given the author's life plus 70 years and when comes to anonymous and pseudonymous works it's given from the date of first published to 95 years and first created to 120 years on basis of whichever expires first.

Duration of copyright in the UK: Britain's duration of protection on copyright is more elaborate compared to others based on literary, music, dramatic, and artistic works it's given as the life span of the author plus 70 years¹² which is similar to the USA, On a sound recording from the date published up to 70 years for broadcasting is from date of publishing to 50 years similarly with published editors its form from the date of published upto 25 years.

COPYRIGHT INFRINGEMENTS AND REMEDIES

Infringement occurs when a person uses copyrighted material of the original creator without permission, throughout the world avoiding infringement is the main reason to enact copyright laws, Comparing the infringement liability from a global perspective every country has serious liability in most countries. While dealing with copyright Infringement in the UK the law provides the most integrated approach the deal with primary and secondary infringement details where the primary infringement deals directly to the original work and indirectly when comes to secondary infringement.

¹¹ Copyright Act, 1957, s 22

¹² Copyright, Designs and Patents Act, 1988, s 12

In America, copyright laws are much more elaborate with both infringements and with the remedy in detail. **The remedy is given through injunction which is applicable throughout America** also when comes to damages they have been divided into Actual and statutory damages, **dealing with criminal infringement the fine amount is not more than \$2500 for fraudulent and false representation.** While in India there are two main remedies available they are civil and criminal remedies for “*copyright infringement the fine can be extended from fifty thousand to three lacks rupees, imprisonment six months to a maximum of three years*”¹³.

TRADEMARK LAWS AROUND THE WORLD

Introduction: A trademark is something that represents and distinguish one person's goods and services from another person, there are many types of trademarks like words including fonts, shape, pattern, a logo with color combination. Even sound, motion, and smell marks have been considered, having a trademark will slowly gain the trust of customers and create a good reputation if the products are good enough mainly it increases the business of the mark holder and prevents the customer from confusion.

WHEN TRADEMARK CAN BE REFUSED FOR REGISTRATION?

Trademark refusal in India: There are mainly two grounds a trademark can be rejected in India when “*Your trademark is not distinctive and designate the kind, values, quality, quantity, intended purpose, and geographical origin*”¹⁴. then the mark will be refused under the absolute grounds of refusal, similarly, while examination if the mark is found it's “*identical or similar to an existing mark then it will be refused*” under relative grounds of refusals¹⁵

Trademark refusal in the USA: A Trademark can be refused in multiple ways while registering in America when any mark causes likely wood of confusion (2d) by pronouncing sound, meaning, and appearance also when a mark is descriptive, geographically descriptive, and misdescriptive, the surname is used and not distinguishing the but as a decorative feature to the goods as an ornament.

¹³ Copyright Act 1957, s 63

¹⁴ Trade Marks Act 1999, s 9

¹⁵ Trade Marks Act 1999, s 11

Trademark refusal in the UK: The grounds of refusal in UK is much similar to India in terms of absolute and relative ground but it's much more integrated adding to this *“trademark which has or consists of emblems related to Royal arms, flag and crown cannot be registered”*¹⁶

Duration of trademark: When comes to the duration it is almost similar to all countries unlike patents or copyright once a trademark is registered will give a **term period of 10 years** and renewal can be filed after 10 years regularly, this situation is similar to India, the USA, UK, etc.

Infringement of trademark: Trademark infringement can be termed as *“An unauthorised use of a registered trademark in a bad faith without the permission of the registered proprietor of the mark which is identical or deceptively similar to, the mark causes confusion to the customer's mind”*¹⁷ while analyzing this section it provides a clear grounds that when a trademark is infringed when it's done by an unauthorized person uses such mark or a mark which is similar to it on the connection with same goods and services In a landmark case Delhi HC held that *“ when A registered trade mark has been infringed a proprietor of such Trademark have legal rights to sue another perpetrator who have the Trade mark which is similar or identical to his mark in any way”*¹⁸

Similarly, to Indian trademark law, the US laws deal with trademark infringement but in much more detail it says when a person is considered as infringed a trademark *“any reproduction of mark by copy or using the colourable imitation and providing the goods and services which is similar to the original trademark which makes the customers confusion”*¹⁹. Infringement laws are almost common to all the country in the world and it mainly deals with the similarity in look of the mark as well as the goods & service they both associated with in U. law deals with the same by *“Infringement of a registered mark is when there is a course of trade if a person uses an Identical mark which is similar and the goods and service which have to be in relations”*²⁰.

¹⁶ Trade Marks Act 1994, s 4

¹⁷ Trade Marks Act, 1999, s 29(1)

¹⁸ *Clinique Laboratories Llc & Anr. v Gufic Limited & Anr* (2010) (43) PTC 788 (Del)

¹⁹ Trade Mark Act 1905, s 32

²⁰ Trade Marks Act 1994, s 10

CONCLUSION

Intellectual Property is an overall manifestation of the aiding of commercial success towards a commodity and its products in the recent light of events. Nowadays, IP tools largely rely upon its extremeness and attractive coating of visual appeal. A design, work, creativity, or innovation nourishes the active process of the industrial and manufacturing sector, thereby helping to expand commercial activities which ultimately leads to the economic development of a country overall. For this reason, brands and individuals tactically use intellectual property laws to prevent, protect and safeguard their creations, innovations, mindful works, and industrial designs that are quintessential tools for branding and profit earning.

This article has explained how the ambit of intellectual property and its laws protects and compares different systems in the US, the UK, and India. This evaluation shows that protection is considerably different amongst these countries' parties to various IP protection instruments. These countries account for an innumerable number of filings, registrations, and applications globally. Moreover, the innovated and developed protection system that entails a rigorous comparison of the systems could only provide valuable insights for other jurisdictions.