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India Amends Copyright Procedural Rules

The statutory framework for copyright in India encompasses the Copyright Act, 1957 ("CA") and the Copyright Rules, 2013 ("CR"). This now stands amended in the form of Copyright (Amendment) Rules, 2021 ("CAR") by the Central Government by virtue of powers conferred under section 78 of the CA. The Ministry of Commerce & Industry (Govt. of India) has duly notified this amendment¹ under Gazette notification bearing number G.S.R. 225(E) dated 30 March, 2021².

The prime objectives of this amendment:

- Parity of the copyright rules with the current statutory framework
- Harmonization with Finance Act, 2017
- The title 'Copyright Board' substituted with 'Appellate Board' (Chapter II)
- Compliance with advancements in technology especially in the digital and cyberspace
- Facilitating ease in trade and commerce through accommodation of software
- Improved intersection of commerce and legal framework
- Precursor to the amendment of the CA

Prominent features

Copyright Societies ("CS")

- Time limit for Registrar of Copyright to accept or reject an application made by the CS (for its registration) extended from 60 to 180 days to ensure thorough scrutiny;
- Chairman and other members of Governing Council of a CS will be eligible for re-election upon completion of their 2-year terms;
- CS to accommodate a system for e-payments of royalties;
- CS to publish tariff schemes on its website;
- CS to maintain records of unpaid royalties on its website;
- Transfer of unpaid royalties (after 3 years) to Welfare Fund of the CS;
- CS to identify and locate authors, publish material information on its website quarterly;
- Publication of annual transparency report on its website;
- CS' website to contain facility to search database of works.

Computer Programs ("CP")

- Application filed before the Copyright Office for registration of CP to furnish at least first 10 pages and last 10 pages of the source code or entire source code if it is less than 20 pages;
- No redactions and blocking of any portion of source code permitted in the application for CP filed before the Copyright Office.

Second Schedule of CR

- Sl. No. 9 (b): "Provided that.....in relation to any goods (section 45)" - the terms "Literary or" are deleted; "or services" are added at the end;
- Sl. No. 10 (b): "Provided that.....in relation to any goods (section 45)" - the terms "Literary or" are deleted; "or services" are added at the end;
- Sl. No. 19: "For an application for prevention of importation of infringing copies (section 53)" - stands omitted entirely.

Inferences and concluding remarks

As is evident from the afore-mentioned summary, the core ideas behind this amendment seem to be inter alia long-standing and overdue upgrade of the copyright procedure (especially regarding technology), increased accountability and transparency of CS, enhanced efficiency in dealing with collection, distribution of royalty amounts and use of electronic and traceable payment methods for royalties by CS.

The CAR are appreciated indeed as they raise expectations and the hope of expeditious corresponding amendments in the statute i.e., CA as well, especially to accommodate the advancements and necessities in the field of Software (and implied accommodation of artificial intelligence and e-commerce too). This would not only be welcomed by Indian businesses and corporations but even transnational companies wanting a foothold in India, entrepreneurs, creators, innovators and even small to medium enterprises worldwide, to say the least.

However, it is still a reality that such proposed amendments in the CA will have to be further harmonized, applied and interpreted with some other pending and much-awaited statutes relating to Data Protection and Privacy laws for instance. Several IP practitioners, academicians and scholars have also made suggestions and submitted the same to the Registrar of Copyright in India and await the finalization of the same.

Even though this amendment may appear to be a small step, it serves as a springboard for reform and in effect, paves the way for future accomplishments and advancements in the IP landscape. It is heartening to see that even in the midst of probably the worst pandemic, the Central Government is making efforts, revamping laws and seizing initiatives (albeit minor) towards strengthening and reshaping the interaction and intersection of commerce and the legal framework.

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¹ https://copyright.gov.in/Documents/Notification/Copyright-Rules_Amendment_2021.pdf

² <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1710417>