

**Entrepreneurship and IP Strategy**  
**Professor Gouri Gargate**  
**Rajiv Gandhi of Intellectual Property Law**  
**Indian Institute of Technology, Kharagpur**  
**Lecture 22**  
**Copyright and Related Rights**

(Refer Slide Time: 00:14)



A very warm welcome, this is the second module of Week 5 of the course Entrepreneurship and IP Strategy titled Copyright and Related Rights. In this module, we will see what are related rights. In the earlier module we have seen what is copyright and then we have seen the subject matter of copyright. We know now that literary or dramatic work, musical work, artistic work, photograph, cinematographic film, record these are the subject matter of copyright.

In that connection, we have also seen the details, such as what includes in literary work, what is dramatic work and all such kind of details. We also know that artistic work includes paintings, sculpture, drawings, engraving, etc. Engraving is etching, lithographs, woodcut, prints and all that kind of activity or artistic creation. We have also appreciated that computer program is literary work and can be protected by copyright, kindly note one more thing. That is government work is copyrighted work.

Now, what kind of government work is a copyright work? It includes the work which is made or published by or under the direction or control of a government or any department of government.

So, it will include legislature in India, also the publications by court or any judiciary authority that will be copyrighted. It will also include that the material which is published by any government, what we can say, the department or due to any government, whatever the outcome of any meeting or deliberation is there that will also be copyright of a government that will be a government work.

Now further we also noted that copyright expires after a certain period of time. So, there is a certain lifespan or there is a what we can say specific period of time is there for which period that right exist and after that, that particular creation will come into the public domain and anybody then can use that creation. For example, we have we know that suppose we take an example of a creation by say Rabindranath Tagore ji.

So, whatever the creation is there, the time span we know that is a 60 years. Now how that 60 years after the death of the author and that 60 years will be calculated from the next year. So, if we calculate in that particular way what will happen that authors life plus that 60 years, that will be what we can say the period of a copyright is, and after that, that will come into the public domain.

And therefore in that way obviously, if you do the calculation in that way you can understand what exactly is a copyrighted material and what is now already what we can say the copyright material is. So, if you do the calculation obviously such a creations which are, what we can say in 1800 or before that, already all these things are in the public domain, okay.

So, we have also seen that who is author, means who is an owner of that copyright. And we have seen the different subject matter according to different subject matter, obviously author is changing. So, we will go a little bit more detail about that particular aspect, that term of copyright, when we are talking about that term of copyright in anonymous. And what you can say synonymous work. It will be like a next year after the first publication.

So, you can understand here we are not aware about author. In normal case we are saying that a life of author plus 60 years. Now here in anonymous work or a synonymous work what the thing will happen that okay this is published in this year say 2020. Then from the next year that 60 years will be calculated. So, that way the calculation is done. In case of photograph what is alive

already it is we have discussed that it is a 60 years, but it is next following the year in which the photograph is published.

So, from the publication date it will be calculated. Same thing with a cinematographic film when it is produced and when it is released from that time, the next year will be considered and from that next year we will calculate that 60 years. Same thing with sound recording we have seen that particular thing. Now what about a government work, what is a life or that expiry date for that?

So, again the government is government work again, it is a literary work. It will come under that and therefore the lifetime of that work will be 60 years. So, in that way if you see that copyright mostly that 60 years is a timeline. Obviously I will put some point here that in India it is a 60 years, if jurisdiction changes that life time changes. So, for example, in USA it is a 70 years.

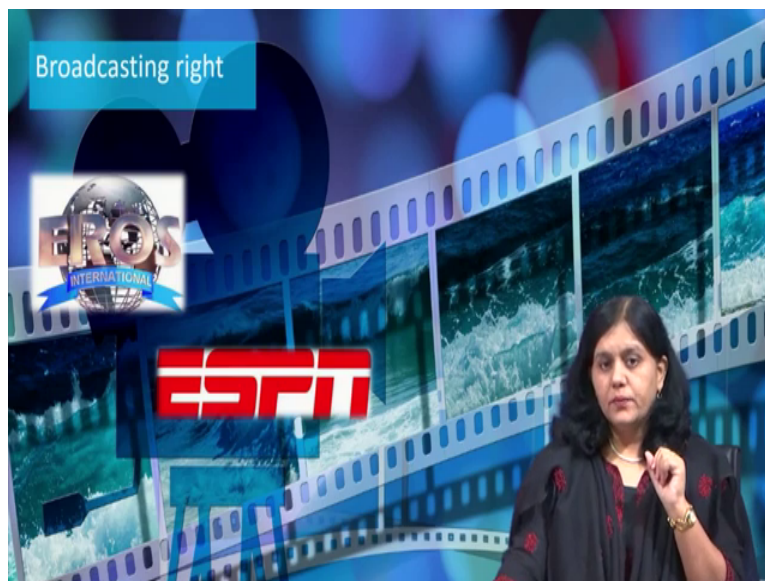
So, it depends on in which territory that particular what we can say the, work is you are considering the, what we can say copyright law and all that details. So, this will be very useful when you enter into online mode at that time, depending on the area or territory where that copyright will be as access that land law will determine that particular territory law will determine that particular lifespan. So, now we are restricting here to India. So, in India it is a 60 years. Now, so now we will move further and we will see what exactly the related rights are.

(Refer Slide Time: 06:22)



So these related rights are two important related rights; broadcasting right and a performance right. Now what do you understand by broadcasting right?

(Refer Slide Time: 06:31)



We generally hear the word that, okay broadcasting right is there or that particular thing is broadcasted, radio is broadcasting in some radio some program is broadcasted or on television some program is broadcasted. So, we are aware about that broadcasting word as such. But what do you understand by broadcasting right.

Now you can see the names here on the here that EROS or ESPN probably you have seen these words many times, especially when you are seeing a cricket match you say that okay ESPN and all. So that kind of words you have very well aware about. Now ESPN is a American sports Channel and it is jointly owned by EROS and Walt Disney Company.

Now, ESPN is owned and controlled by EROS. The digital media management of EROS is taking care of that particular division. Now, what is a meaning of broadcasting that we have to understand first? It is nothing but a communication to the public. Broadcasting is nothing but a communication to a public, okay. How that communication is made? So, this can be by wireless diffusion or it by a it using the wires.

So, either with wire or without wire so that is a wireless diffusion is there. Now generally we know that broadcast include any one or more of the forms of a science, sounds or visual images. When you see the cricket match live cricket match that telecast is there or parliament sessions whenever you see, you will see that sound that visual images, obviously any form of science that kind of scenario is there.

Now broadcasting can be commercially. It can be a commercial activity. It can be a public what we can say broadcasting or it can be a community broadcasting any kind of broadcasting maybe. Now because of broadcasting, exactly whatever is going on live in say the cricket match. If it is going on in Australia, you can watch sitting here in your home. So, that is a benefit of broadcast and that is started when, if we see the history of broadcasting. It is I guess, in 1937 that broadcasting that technology or that what we can say use of broadcasting is started.

Now many times we see on the screen that is written that live, something like that. So, we understand that okay, this is a live session going or sometimes it is a recorded. So, any kind of that what we can say the outcome is there but that whatever is, a broadcasted when it is communicated to the public, obviously, that will come under the broadcast and there are rights involved in that broadcasting.

Now, this broadcasting whatever the activity is done, this is done by the agencies. And we call these agencies as a broadcasting agencies. Now, EROS or ESPN, SONY these are the broadcasting agencies. And obviously for that broadcasting, they are getting the rights lawfully.

So, if cricket match is going on, on the ground say on Wankhede stadium, obviously one off that broadcasting, what we can say, the organisation or a agency, they have received rights lawfully from the organisers.

And then and then only they are broadcasting that particular match or any activity or any programme which is going on. So, obviously that agency which is broadcasting, take the rights from the organisers. Obviously organiser will not give that rights freely, some consideration will be there and broadcasting agencies will give that consideration to the organisers.

So, it will include the what we can say, if you take a simple example of ICC, International Cricket Council, example of a fortune or a wealth involved is like this, that ICC receives approximately 1.98 billion dollars for the period from 2015 to 2023. So, the contract between that broadcasting agencies and ICC, the time period is 2015 to 2023. Now, during that whatever the time period it is, that contract is of 1.98 billion dollars.

So, you can imagine the involvement of a fortune in the copyright that is here, the related right that is broadcasting right. And that much amount is given to the organizer by these broadcasting agencies. And therefore, if you remember in the introduction video we have shown the money shower kind of one clip, actually. So, you can imagine that if this kind of amount is involved in a copyright that is a 1.98 billion dollar in that time span is 2015 to 2023. But you can imagine the IP right and the returns on that particular what we say the IP.

So, therefore we have to we have to understand or appreciate the, what we can say the IP rights. And same thing will happen with the patent also, you will see or industrial design also or trademark also we will see that few valuation examples of a trademark we have already seen in our earlier module. So, you can see the one trademark, if it sold that particular amount goes into the million dollars or billion dollars also. So, we have already seen that particular example when we have dealt with a trademark law.

Now, considering this related right, which chapter in the Indian law or Indian Copyright Act is dedicated to this? What we can say related rights. So, Indian Copyright Act, Chapter 8, it deals with a rights of broadcasting and that performing rights. So, these related rights are dealt in

chapter 8. Every broadcasting organization receives a right called broadcast reproduction right. Now what is a term broadcasting right is?

It is a term in the sense the life of that broadcasting right. We have seen that 60 years is for copyright we have seen that example. Now, what is a right for (broadcast) what is a time frame for broadcasting right? So once any agency receives that broadcasting right, it that right is for 25 years. So, you can understand that suppose Sony receives the contract from the say ICC for that contract will be means once they receive that particular match.

What we can say that happen, suppose in 2020 then from next year that is 2021 we have to calculate 25 years till that 25 years. Sony will own all the rights of broadcasting of that particular cricket match. Same thing with a say on a radio some program is what we can say they have recorded some program obviously once they record that programme for broadcasting they will get the right for the next 25 years, okay.

So, that way the broadcasting rights are for 25 years, copyright 60 years, okay. So, it is from the beginning of a calendar next that a calendar next calendar year that from that January we have to calculate the timeframe. Now what Rights Broadcasting Organization is getting? First, it can stop anybody who is broadcasting the content without permission, obviously because they have paid for that and they will not allow anybody to broadcast that particular thing.

Because obviously you know that when they are doing the broadcasting so many advertisements are they will show you advertisement and that is a revenue generation for them. And in return, already they have paid for that particular organisers, for particular that program. Second, if somebody make a broadcast available on a payment basis to the public, that is an infringement.

Means if somebody have recorded that and for a small group, but they are taking a returns a commercial activity is done, although it may be a small group, all local activity, if somebody do that kind of broadcasting, obviously that is an infringement and obviously broadcasting whosoever is owning that broadcasting right they can take the action.

Third thing is that if anybody make a sound recording or visual recording of a broadcast, then it is a crime and it will attract a legal action. So, if some cricket match is going on and if you do the

complete recording of that cricket match and then you start displaying that particular thing and obviously you are making it commercial activity.

If that kind of activity is done it is you are not a legal what we can say owner or you have not received the rights for that recording until you have recorded, until you are putting it into the what we can say is a social media or you are using it for some commercial activity that is not at all allowed because you have not receive the rights of broadcasting.

If someone makes any reproduction of such a sound recording or visual recording without license. So, that matches there you have supposed by that particular say CD or something like that any form if it is available, you have bought that particular thing, not necessarily cricket match it maybe some other program some what we can say the live concert is there and you have recorded that particular thing and then you start selling the copies of that, that is again the infringement.

And the owner can what we can say they can take action against that particular activity. Then obviously the copies, if you sell it in the form of a disc or some any other form or license, licence you have created your own business model based on that without getting the proper rights. Obviously, you are attracting a legal action.

So, you can understand that what exactly the broadcasting right is there and what are the rights of broadcasters means any broadcasting agency receives that rights what is are that, what rights they are receiving and we have seen in the copyright reproduce and all that 4 categories are there that economic rights are there. So, same applies here in the broadcasting right. Now, we will move further to the performance right.



(Refer Slide Time: 17:06)



Now performance if you see that, you can remember immediately the performance of Amitabh Bachchan or performance means the comedy show which is Kapil Sharma is not we can say is hosting and obviously the live concerts or the performance of a Lata didi. Now here, what the thing is happening is that this performance whatever is, it is a visual or acoustic presentation. It is made by a one or more performance.

So, if we try to understand legally what that performance is, that is the visual or an acoustic presentation made live by one or more performance. And that performer, he gets that performers right means as he is exhibiting that particular activity or he is what we can say presenting that visual or acoustic presentation. He or she is getting that performing right. Now the question comes who is a performer?

Means if we want to see the definition, whether only this, what we can say Cine stars are the performer or who else is there? So, obviously they are all so actors, actress, whatever, singer, then musician, then dancer, acrobats, juggler, conjuror, snake charmer or a person delivering a lecture or any other person who makes a performance. So, this list can go increasing.

So, you can understand whosoever is doing a performance that person or that individual is a performer. And for that particular acoustic and visual presentation, he or she is getting the performers right, okay. So, for example if some somebody is giving a speech, then obviously the

person who is giving a speech he is performing in one angle and therefore, obviously that is his performance right.

So, what is a term of that performance right? We have seen the term for copyright it is 60 years. For broadcasting right it is 25 years. Now for a performance right this time frame is a 50 years 50, okay. So, we have to remember 3 timelines when we are dealing with a copyright and indium 60, 25 and a 50. Now which are these rights means when we are saying performer is getting the rights. What rights obviously he is getting? So he is getting the rights like a he can take action against the infringer.

Now you know what that infringer is, if somebody is doing means what we can say the infringement here is like somebody makes the sound recording or visual recording of the performance or reproduces that sound recording or a visual recording of the performance or broadcast or rebroadcast, the performance that is a sound recording or a visual recording or communicates the performance to the public.

So, if any of these activities are done without permission that will attract a legal action. Now, we have seen in the copy right, there are a few exceptions that Section 52 we remember. So, similarly here few exceptions are the, that there are certain acts that will be considered as a, that will be considered as okay it is a fair. And that will not attract any legal action. So, which are these exceptions?

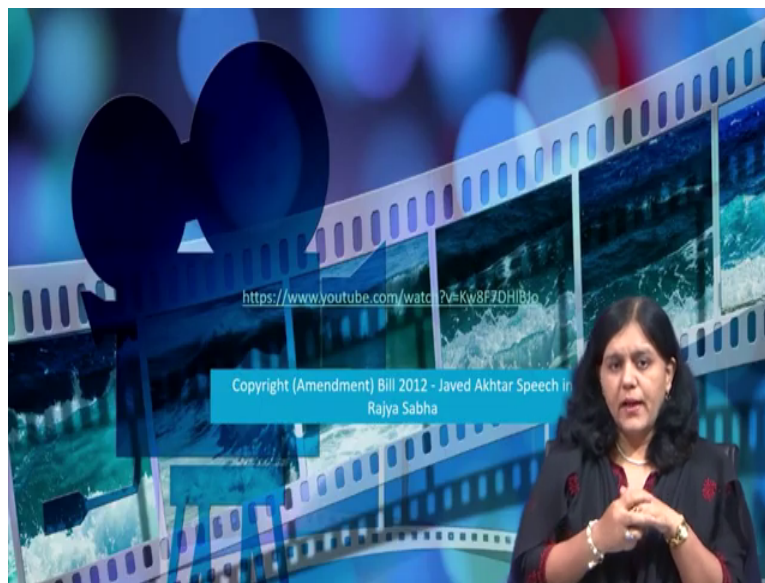
So, if any sound recording or visual recording is done for a private use, that we can say that okay this is not a infringement or such recording for a purposes of a bonafide teaching or research. Ok. So, many of the art school will require that kind of videos for a, some analysis or some other what we can say research then that will not at all attract any legal action that is a fair use. Then sharing that clips or excerpts of performance of broadcast in a, reporting of a current events or for a bonafide review, then that will not will be considered as a what we can say, infringement.

So, for example if Prime Minister Modi ji if he gives a speech and obviously that giving a speech means he is performing. So, if he is performing, he will get the performance right. So, whether he can, if any, news agency on the TV channel, any TV channel, if that particular clip, that particular speech is a broadcasted, whether that is affecting the performance right, no, that will

not affect because that particular small part of that speech is just a given as a what we can say, it is like a sharing of the fact that is a news, sharing of the fact is there.

And in that case, it will not attract any legal action against any of the news channel or any TV what we can say channel. And that is allowed. So, this kind of act is allowed that will not attract any legal action. So, that way this performing right is for a 25 years and you can understand what is included in the performing right. Now, we will watch one video here.

(Refer Slide Time: 22:36)



So, what that video is there, what that video is about actually. So, you can see that in this video there is a discussion about a copyright bill. So, Javed ji Akhtar, now he is presenting it in the parliament. You just go through the, what we can say what his opinion and what we can say the as actual what we can say a part of a film industry as he is a part of film industry. He know what exactly the issues are and just watch that what is his presentation in the parliament.

(Refer video 23:15 to 24:24)



Javed Akhtar: One, that I must immediately declare that whatever I am going to say will have something to do with this bill under consideration which have something to do with music industry. And I work for music industry, my relationship with music is what a farmers relationship with agriculture or lawyer is connect with judiciary, so I hope it will not be considered any kind of concept of interest.

Professor: Okay, so you can watch this video later. Here if you see that if I want to relate this copyright here also you can just see Javed Akhtar is, he is giving the speech or his what we can say some what we can say some experiences related or his the issues which film industry is facing. So the content which is his presenting that will be obviously a copyrighted material as a literary work.

Then the activity means the way he is, by which he is presenting that it is his performance right. Then you can see that is a broadcaster right as it is a parliamentary session it is broadcasted. So, that included a broadcasting right, it is a public broadcasting. So, that is a broadcasting right is also involved. So, that way means you can see that, okay this copyrighted. So, these three aspects you can easily identify in that clip also then sound recording is there then on that what we can say related copyright related activities are there.

So, now you can appreciate now that performing rights are related to a performance, it may be a TV serial, it may maybe a cinematographic film or any audio visual medium. It may be what we can say delivering a session by a teacher that is also performing any speaker who is giving the speech that is also performance, what we can say performance and that will give him or her performance right.

So, we have also seen that broadcasting rights are there and broadcasting what we can say the agencies are getting that rights from the broadcasting agencies by giving some consideration. And obviously that is a strict what we can say contract and through that contract that activities are control, okay. So, up to this, I guess you are very clear about that related rights.

(Refer Slide Time: 26:29)



Now we will move further and now we will see that something about a copyright societies. Now what does copyright societies are that that we will not go much details, but just a glimpse of that. Because when we say that that particular audio visual clips are there or any sound recording is there. If anybody want that copyrighted material to whom they should contact and how they can get legal rights over that. So, they can contact these copyright societies.

Now 3 copyright societies; Society for Copyright Regulations of Indian producers of films and televisions in short it is SCRIPT, script for Cinematographic Films, Indian Performing Right Society Limited, that is IPRS. It is for musical works and Phonographic Performance Limited

that is a PPL that is for a phonographic performance. Now these are the three societies how to contact them and how you can get the right it is a very simple process. In upcoming module we will see the registration of a copyright, although we have already seen that it is not required.

But if anybody want to do that registration, what is a procedure for that particular copyright registration that we are going to see. So, at that time we will give you the fees and the procedure for applying for this. If you want to get some copyrighted material for your personal use or for (commercialization) commercial use, you can apply to these copyright societies and you can get that rights. What the fees are, all these things we will discuss in the upcoming module.

Now why this societies are that these societies are the easy. What we can say very easy way to get the access to the copyrighted material. And obviously there are certain norms. Government has put some norms and if that norms are followed, then and then only the registration of these copyright societies are allowed.

And these are obviously proper societies under the government with the some that stipulated government guidelines and that registration number and all that legal what we can say legal compliance is whatever are there all these things are followed there. So, the, that procedure we will see in the upcoming module. Now as we have seen already, that copyright society is moving further we will see a little bit about a conventions.

(Refer Slide Time: 29:08)



So, we have seen one convention, if you remember one convention. So do you remember how many contracting parties are there with a reference to Berne convention? 178, okay. So, we will just give you the name of that treaties which are related to the copyright will not go into the details of that particular conventions.

The important thing for you now as a starting what we can say if you are starting or trying to understand this IP is you just know under copyright what particular what we can say the subject matter is covered under copyright. What is a lifespan for that particular thing and how you can register that particular copyrighted material and if somebody by ignorance if you do or if somebody do the infringement of your copyright what possible actions you can take.

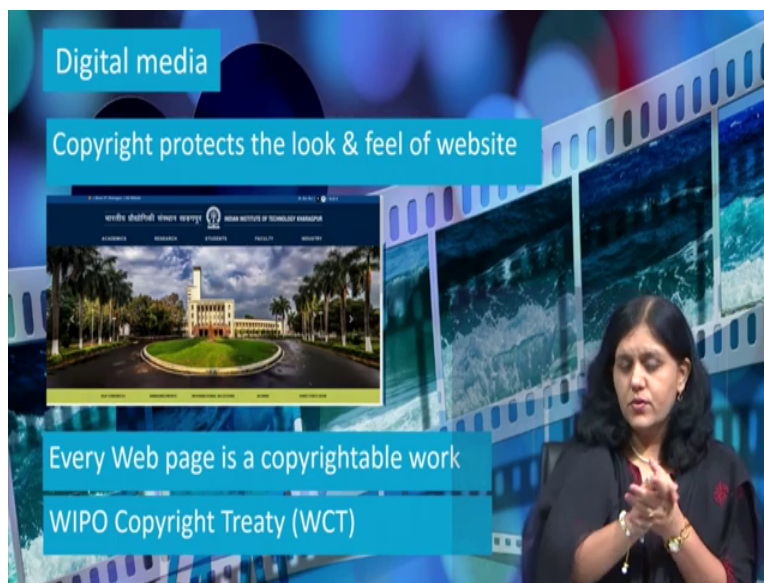
And if you are doing by ignorance, what possible actions come against you that that much information, if we get through this initial understanding, if we know, then probably we can. If that base is clear then you can go further and go in the details of that. So, I will just give you the examples of few conventions.

So, there is a Brussel convention, then Rome convention is there then WIPO performance and Phonograms Treaty, I guess you remember the long form of WIPO, WIPO is like a World Intellectual Property Organization that is what we can say central body or the international body which take care of all IP related activities at a international level.

Now adding to that particular thing that WIPO copyright treaty is also there that WIPO copyright treaty and WPPT that is a WIPO performance and Phonograms treaty. This together it is also called as a WIPO Internet treaties and that is what we can say very apt in this current scenario that most of the activities are now happening on online or digital media.

So, that when it is on a digital what we can say digital activities are there this kind of treaties are making important role and probably some probably with the current scenario, there may be some amendments or some additions that deliberations will be there and that there is a possibility, okay.

(Refer Slide Time: 31:48)



So, as the point came related to digital media, we will just discuss a little bit about that because when E-commerce, we are dealing with E-commerce that E-commerce, obviously it will involve the copyright. So, in the digital media and we are dealing with a digital media. The, if we see the website now, the picture you are seeing is a IIT Kharagpur website, actually.

So, any website, if you take, any web page you take it is a copyrighted material. So, nobody is allowed to copy any material on that website. And this website is like what we can say. It is like a feel, it gives a certain feel and then it gives the presentation style is a peculiar to that particular website and obviously that will have the copyright. So, nobody is allowed to copy that particular material or a content or a photographs or the way arrangement.



It is not allowed as such to be copied because it will attract (law) legal action. So, here obviously we have just seen that WCT is there WIPO copyright treaties is also involved in that particular thing. So, I guess with this we are coming to the end of this module and by this time with this two sessions related to copyright, probably we are able to make a foundation that what is a subject matter of copyright.

Then what are the related rights and the lifespan of a copyright. In patent we have seen that it is a 20 years or in the trademark we have seen it is indefinite, it is a renewal you can renew it and it can have an indefinite what we can say life. But in copyright if you see 60 years, 25 years and 50 years.

So, 60 years literary work or a copyright matter then the broadcasting rights are 25 years and 50 years performance Right. So, now I guess with this we will come to the end of the session. See you in the next session in this, in the next session we will see how the registration of a copyright can be done. Thank you.

(Refer Slide Time: 34:11)

