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do or authorise the



According to Section 14 of the Copyright Act, 1957, ' Copyright' means the exclusive right subject to the provisions of this Act to do or authorise the doing of the any of the following act in respect of a work or any substantial part thereof, namely:— (a) In the case of a literary, dramatic or musical work, not being a computer programme,— (i) To reproduce the work in any material form including the storing of it in any medium by electronic means; (ii) To issue copies of the work to the public and not being copies already in circulation; (iii) To perform the work in public, or communicate it to the public; (iv) To make any cinematographic film or sound recording in respect of the work; (v) To make any translation of the work; (vi) To make any adaptation of the work; (vii) To do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work mentioned in (i) to (vi); (b) In the case of a computer programme,— (i) To do any of the acts specified in clause (a); i. e. from (i) to (iii) of the above items; (ii) To sell or give on commercial rental or offer for sale for commercial rental any coy of the computer programme.

However, such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental; (c) In the case of an artistic work,— (i) To reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work; (ii) To communicate the work to the public; (iii) To issue copies of the work to the public not being copies already in circulation; (iv) To include the work in any cinematograph film; (v) To make any adaptation of the work; (vi) To do in relation to an adaptation of the work any of the acts specified in relation to the work in

such-clauses (i) to (iv); (d) In the case of a cinematograph film,— (i) To make a copy of the film, including a photograph of any image forming part thereof; (ii) To sell or give on hire or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions; (iii) To communicate the film to the public; (e) In the case of a sound recording,— (i) To make any other sound recording embodying it; (ii) To sell or give on hire, or offer for sale or hire any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions; (iii) To communicate the sound recording to the public.

Explanation: For the purpose of this section, a copy which has been sold once shall be deemed to be a copy “ already in circulation”. According to Section 17 of the Copyright Act, 1957, the author of a work shall be the first owner of the copyright. As per Section 13 of the Copyright Act, 1957, copyright shall subsist throughout India in the following case of works, namely, (i) original literary, dramatic, musical and artistic works; (ii) cinematograph film; and (iii) sound recording. The term ‘ any other exclusive privilege’ consists of patent right, a right to a trade mark or trade name etc. ‘ Infringement’ means the breach of a law or violation of a right.

It is the unlawful sale or use of a patented invention; or copyright. According to Section 51 of the Copyright Act, 1957, copyright in a work shall be deemed to be infringed when any person, without a licence granted by the owner of the copyright uses for the communication of the work to the public. In *Associated Publishers v. Basyam*, (ILR (1961) Mad. 134), it has been held that in order to constitute infringement of copyright there should be direct or indirect use of those features of the plaintiffs work in which the copyright of

the owner subsists. In order to infringe a copyright it need not be exact reproduction.

In *Parry & Co. Ltd. v. Parry & Co (Marshall)*.

, [(1963) 2 MLJ 311], it has been held that in the case of trademark infringement takes place if there is probability of deception or confusion caused in the mind of the consumer by reason of the phonetic or visual similarity or in the basic idea between the marks. In the matter of infringement of trademarks, patents, copyright etc., the owner is entitled to all such civil remedies by way of injunction, damages account and so on. But the Art. 88 is restricted in its application to suits for damages or compensation for infringement of copyright or any other exclusive privilege. The limitation under Art.

88 starts from the date of infringement and the plaintiff cannot recover compensation in respect of infringement of copyright or any other exclusive privilege for any period beyond three years from the date of institution of the suit. In *Bengal Waterproof Ltd. v. Bombay Waterproof Mfg. Co.*

, [(1997) 1 SCC 99], it has been held that whenever and wherever a person commits breach of a registered trade mark he commits a recurring act of breach or infringement of the trade mark giving a recurring and fresh cause of action at each time of such infringement to the party aggrieved.