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यदि तपाईंसँग बौद्धिक सम्पत्ति, प्रतिलिपि अधिकार एवं तत्सम्बन्धी अधिकारका विषयमा कुनै कानूनी वा अन्य जिज्ञासा भएमा आफूलाई लागेका प्रश्नहरू हामीलाई लेखी पठाउनुहोला । यस बुलेटिनका आगामी अङ्कहरूमा तपाईंका प्रश्नहरूको उत्तर दिने प्रयास गर्नेछौं ।

धन्यवाद ॥

Far Western Regional Symposium Held on Copyright

Honorable Minister for Culture and State Restructuring Mr. Gopal Kiranti has told that the government is always very much conscious about the rights of copyright owners. Addressing the regional symposium on January 9, 2009 in Dhangadhi organized by Nepal Copyright Registrar's Office (NCRO), he emphasized the need of strong legislation with the provisions of implementable punishment to right violators. He advised the participants to provide valuable suggestions so that it would be helpful for the government to implement the related policy. Mr. Baburam Lamichhane, Chief District Officer of Kailli suggested the government to be more sensitive in the case of literature, art and music. Dr. Hemraj Panta, Campus Chief, Kailali Multiple Campus requested all the concerned to take copyright issues not only the issues

of a person but also the issues of the government and society. He expressed his dissatisfaction upon the misuse of technology for the violation of copyright. Speaking at the
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Training for the Officials of Law Enforcing Agencies

A two-days residential training about the situation of copyright law enforcement has been held in Dhulikhel, Kavre on Feb. 16-17, 2009. Inaugurating the training program organized by Nepal Copyright Registrar's Office (NCRO) Mr. Chhabiraj Panta, Secretary, Ministry of Culture and State Restructuring expressed his view that the Ministry is always ready to protect the rights of real creators by effective implementation of the existing law. He opined that he would try for the extension of copyright office outside the valley to inspire local creators. He requested all the officers representing from different government agencies like Nepal Police, Office of Attorney General, Court, Custom and others to provide valuable suggestions so that it would be easier to incorporate their ideas in copyright act during the period of its amendment. Mr. Bir Bahadur Rai, Registrar, NCRO requested all to be sensible in the cases of copyright as

the state has given priority putting it in schedule - I of State Cases Act, 1992. Mr. Sharada Prasad Trital, Joint Secretary, Office of the Prime Minister and Council of Ministers suggested the related Ministry to incorporate the provision of semi-judicial authority to NCRO in the existing copyright legislation. He also showed the necessity of orientation to the secretaries of different ministries so that the issues of intellectual property would get priority. Chief District Officer Mr. Netra Prasad Neupane and Chief of the District Police Office

Mr. Sanjip Bhandari made their commitment to handle the cases of intellectual property in a high priority. Six different papers by the experts were presented in the two days program. Mr. Kedar Nath Koirala had expressed his view at the last of the program from the side of participants.

News and Events

Regional Training about Copyright

A regional training on copyright & related rights held in Mahendranagar, Kanchanpur on January 13, 2009. About one hundred people participated in the program that was organized by Nepal Copyright Registrar's Office (NCRO) first time in the region. Speaking at the program, Mr. Thaneshwor Prasad

Bhatta, senior advocate suggested the local administration to handle the copyright issues as the issues of public concern. He requested NCRO to conduct the public awareness programs that would help for the protection of copyright of particular right owners. Mr. Basudev Bhatta, President, Mahakali Literature Forum requested the government to take initiation for the preservation of local culture, language, art and skill. He advised NCRO to be more sensible for the implementation of existing copyright law and regular monitoring of it. Chief District Officer Mr. Himnath Dawadi requested the office to pay more attention in the cases of unauthorized remix. Mr. Dawadi and Chief District Police Officer Mr. Madhav Prasad Nepal assured the creators that they were very ready to take necessary step for the prevention of unauthorized production and use of copyrightable materials. Speaking at the program Mr. Bir Bahadur Rai, Registrar, NCRO inspired the creators not to do late to take necessary action for the protection of their rights. Two papers on the related subject matters had been presented in the training. Mr. Nirajan Bista, Mukunda Lohani, Ram Ekwal Chaudhary, Baldev Awasthi, Ghanashyam Khati, Ramesh Panta, Narayan Giri, Balaram Pandey, Nabaraj Joshi and Manju Karki had taken part in the discussion. The program was conducted by Mr. Narayan Prasad Aryal, Section Officer, NCRO and was concluded with vote of thanks by Mr. Rai, Registrar of the office.

Emphasis Upon the Effective Implementation of Law

In a discussion program organized by Nepal Copyright Registrar's Office (NCRO) in Dhanakuta on Dec.25, 2008. Mr. Nagendra Bhakta Shrestha, senior advocate and the chairperson of Appellate Bar Association, Dhankuta emphasized the need of effective implementation of existing copyright law. He suggested NCRO to provide knowledge about copyright for all the concerned in a broad range. Mr. Ram Prasad Upadhyaya, Chief District Officer, requested all the participants to provide valuable suggestions especially about the weaknesses of copyright legislation so that it would be easier for the process

of act amendment. Addressing the program, Mr. Bir Bahadur Rai, Registrar of NCRO requested local administration to take the cases of copyright infringement very genuinely. He asked the creators do not hesitate to file the cases in the office of Police if they were victimized by infringers. Mr. Gopal Prasad Guragain, former member of parliament and the representative of two different literary organizations had expressed his ideas upon copyright. Upendra Pokharel, Hima Basnet, Ramesh Chandra Adhikari, Sanjaya Santosi Rai, Kokila Bhandari, Ramnath Adhikari and other many participants had also kept their valuable views in the program.

Training for College Students

More than three dozen students from different colleges of Kathmandu valley attended a one-day copyright training

organized by Nepal Copyright Registrar's Office (NCRO) in the training hall of Central Cooperative Training Centre, New Baneswor on November 21, 2008. The objective of the training was to provide basic knowledge of copyright to the students who especially are the users of literary, musical & computer works. Speaking at the program, Mr. Bir Bahadur Rai, Registrar, NCRO requested all the students to use original books of real authors and inspire them for more creations. Three classes in different relevant subject matters have been conducted in the program by Mr. Narayan Prasad Aryal, Section Officer, NCRO and Shiva Prasad Khanal, Legal Officer of the same office. The students made their commitment to disseminate the information about copyright that they learned in the program to their friends. The program was concluded with the distribution of certificate to the participants by Mr. Rai, Registrar of NCRO.

A Critical Appraisal of Nepalese Copyright Act, 2002

Shiva Prasad Khanal

It is no doubt that the protection of creativity and originality enhances the cultural and social development of a nation. Creators are not only the messengers of knowledge but also the reformer of the society. Their continuous efforts through valuable creations support to eliminate social and ethnic disparity as well as the evilness that harm to the mankind. Moreover, the existing society is based upon the transaction of knowledge. Due to the impacts of globalization and rapid development of modern science and technology, the whole world is assumed to be a small village. The dissemination of knowledge is the need of hour. So, the protection of originality and creativity is highly emphasized through different mechanisms in the modern world.

The erection of institutional as well as legal mechanisms accentuates to have legal protection for intellectual creativity and grants a bundle of rights to the authors for their respective works. The Berne Convention for the Protection of Literary and Artistic Works, 1886 is one of the most prominent documents which granted a bundle of rights to the authors in their respective works. Similarly, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961 granted the moral and economic rights of the related right holders. After the accession to the World Trade Organization, Nepal is obliged to fulfill different sorts of onus in the field of trade and service. The Trade Related Aspects of Intellectual Property Rights (TRIPS) and WIPO Internet Treaties are the latest documents for the enhancement of intellectual property rights. Prior to these treaties/ conventions, the Universal Copyright Convention came into the force that led to the emergence of the World Intellectual Property Organization (WIPO) as a powerful institution with the aim of administrating IP related treaties and conventions. The WIPO is administrating altogether 24 IP related treaties/ conventions in the present days.

Nepal made the accession to the Berne Convention in January 11, 2006 although she introduced the Copyright Act prior to this. She also became an active member of the Berne Union at the time of accession to the convention. Lots of rights

and duties are emerged with the accession. The quest of National Treatment, trades in service of intellectual property rights without any discrimination, free trade of such properties are some of the outstanding duties that Nepal has to bear in the course of trading of IPRs.

The development of Copyright Law in Nepal dates back to 1965 A.D. with the promulgation of the then Nepalese Copyright Act. That Act made the compulsory registration system for the Copyright protection which was anti-thesis to the provisions of the Berne Convention. The Copyright Act, 2002 repealed that Act and incorporated the provision of voluntary registration system for the Copyright protection. The Act has attempted to clarify numerous terminologies under the definition of 'Work'. A bundle of exclusive rights is provided to the authors of the specific works. Moral rights are well recognized and Economic rights are made transferable through the means of written agreement. Similarly, rights of Performers, Phonograms Producers as well as the Broadcasting Organizations are also incorporated in the Act. Minimum term of Copyright Protection, insertion of Fair Use provisions, Conditions of Copyright Infringement, Procedure of investigation, Remedies against infringement, establishment of Nepal Copyright Registrar's Office, Provision of the Royalty Collection Organizations are some of the outstanding features of the Act. A police officer of at least the rank of police inspector shall investigate and inquire into the cases under the Act. This is another feature. Similarly, the Copyright infringement cases are put in Schedule-1 of the State Cases Act, 1992 and the Summary Procedure Act, 1971 is followed in trying and settling the disputes of Copyright infringement. The concerned district court is empowered to settle such disputes.

On the other hand, lots of lacunas are experienced in the platform. The Act erected Nepal Copyright Registrar's Office with the purpose of Copyright protection. But, the office is only engaged in registration of creations and dissemination of awareness. A huge

quantity of Copyrighted materials are duplicating in the recent market. The violation of Copyright is rampant in the city areas. The Copyright based industries are seeing regressive due to piracy. A large number of authors, performers and other stakeholders are frustrating in their business. Peoples are being cheated by the pirates. In this situation, the administrative wing of the Government must be powerful because of the need to cope the above stated problems. But, Nepal Copyright Registrar's Office is paralyzed by the Act itself. There is need to have quasi-judicial authority to this office for the proper execution of Copyright Law in Nepal. Moreover, the Act has considered the infringement cases as the state cases. Lots of disputes are seen as civil cases as per their nature. But, the claimant must file First Information Report (FIR) if s/he wants to settle that dispute through court litigation. So, this provision also needs the amendment to cope these problems. Proper legal provision for Cinematographic Works, encompassment of the provisions of WIPO Internet Treaties, synchronization of rights and duties of governmental wings, co-ordination between the Copyright law enforcing agencies, abandonment of various rights by the author and its legal consequences, state responsibility towards the Copyright protection and other prominent provisions are not incorporated in the existing Copyright Act which can be considered as lacunas of the Act. The amendment of the Act is need of hour to cope these problems.

Similarly, the separate Copyright Cell in the police force should be formed and the personnel should be well trained for the investigation of crimes related to the Copyright infringement. In the United States of America, the Federal Bureau of Investigation (FBI) investigates such crimes. Similarly, the Intellectual Property Inspectors (IPI) collects evidences relating to the copyright infringement disputes in Malaysia. Same provision is seeing in Singapore. So, the distinct Copyright Cell in the police force is also the today's need. The proper execution can only flourish if the existing Copyright Act is well amended and the modern treaties/conventions are highly emphasized.

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बौद्धिक सम्पत्तिको सम्बन्धमा नेपालमा प्रतिलिपि अधिकार

वीरवहादुर राई

पृष्ठभूमि

विश्वमा बौद्धिक सम्पत्तिको विकास भएसँगै यसको महत्व दिनानुदिन बढ्दै गएको छ। विगतमा चल र अचल सम्पत्तिको महत्व थियो भने हाल आएर बौद्धिक सम्पत्तिको महत्व बढिरहेको छ। सम्पत्ति शब्दले चल, अचल र बौद्धिक सम्पत्तिलाई जनाउँछ। चल सम्पत्तिमा बजारमा खुला रूपमा विक्री हुने र अचल सम्पत्तिमा जमिन, घर आदि पर्दछन् भने बौद्धिक सम्पत्तिमा मानवीय विचारबाट सिर्जना भएको अमूर्त सम्पत्ति पर्दछ भन्ने बुझिन्छ। बौद्धिक सम्पत्तिको अधिकार भन्नाले विचार र ज्ञानको प्रयोगबाट बौद्धिक सिर्जना गरेवापत पाउने अधिकार बुझिन्छ। जुन मानव मस्तिष्कबाट उत्पन्न हुने विशेष सिर्जना हो। सिर्जनामा विचार र ज्ञानको प्रमुख योगदान रहेको हुन्छ। विचारले जब Tangible स्वरूप अर्थात देख्न सकिने रचनाको रूप धारण गर्छ, त्यसलाई सिर्जना वा रचनाको रूपमा लिने गरिन्छ।

बौद्धिक सम्पत्तिका मूलतः दुई पाटाहरू रहेका छन्: औद्योगिक सम्पत्ति र प्रतिलिपि अधिकार। औद्योगिक सम्पत्ति अन्तर्गत पेटेन्ट, व्यापारिक चिन्ह र व्यापारिक नाम आदि पर्दछन् भने प्रतिलिपि अधिकार अन्तर्गत साहित्यिक लेख, रचना, वैज्ञानिक आविष्कार, कलाजस्ता क्षेत्रमा मानव मस्तिष्कद्वारा सिर्जना गरिएका बौद्धिक सम्पत्ति पर्दछन्। यस्ता सिर्जना तथा आविष्कार नितान्त मौलिक र नौलोपनयुक्त हुनुपर्दछ। सिर्जनामा स्रष्टाको ठूलो मानसिक लगानी हुने हुँदा त्यस्ता सिर्जनाले ठूलो महत्व र मूल्य राख्दछन्। त्यस मान्यतानुसार त्यस्ता बौद्धिक सम्पत्तिको अधिकार संरक्षण गरी स्रष्टाको सम्मान मात्र हैन बौद्धिकताको नै सम्मान गर्नको लागि विश्वमा बौद्धिक सम्पत्ति संगठन (WIPO) को स्थापना भै कार्यरत रहेको छ। यसले संयुक्त राष्ट्रसंघको विशेष एजेन्सीको रूपमा समेत मान्यता पाई सञ्चालनमा रहेको छ।

ऐतिहासिक पृष्ठभूमि

मानव मस्तिष्कको कल्पना शक्तिबाट सिर्जित सिर्जनाको संरक्षण र त्यसबाट प्राप्त हुने लाभ स्रष्टालाई दिन सन् १७९० मा संयुक्त अधिराज्यमा, सन् १७९० मा संयुक्त राज्य अमेरिकामा र सन् १९५७ मा भारतमा प्रतिलिपि अधिकार सम्बन्धी कानून लागू भएको पाइन्छ। नेपालमा सर्वप्रथम २०२२ सालमा प्रतिलिपि अधिकार सम्बन्धी कानूनको निर्माण भएपनि कार्यान्वयन प्रभावकारी हुन सकेन। WTO मा नेपालको प्रवेशपश्चात् सो सँग Compatible बनाउनु पर्ने हुँदा नयाँ प्रतिलिपि अधिकार ऐन, २०५९ जारी गरियो। नेपाल साहित्यिक तथा कलात्मक रचनाहरूको संरक्षण गर्ने बर्न महासन्धिमा ११ जनवरी २००६ देखि पक्ष भइसकेको छ।

प्रतिलिपि अधिकार:- साहित्य, कला, ज्ञानविज्ञान र यससँग सम्बन्धित क्षेत्रमा नितान्त मौलिक र बौद्धिक रूपमा सिर्जना गरिएका रचनाको प्रयोग गरेर त्यसका विभिन्न प्रतिलिपिहरू उत्पादन एवं पुनरुत्पादन गरी आर्थिक लाभ प्राप्त गर्न त्यस्तो रचनाको रचयितालाई कानूनद्वारा प्रदान गरिने एकलौटी अधिकारलाई प्रतिलिपि अधिकार भनिन्छ।

तत्सम्बन्धी अधिकार:-प्रतिलिपि अधिकारयुक्त सामग्रीको उत्पादन, अङ्कन एवं विच्छेदनजस्ता कार्यमा संलग्न रही सिर्जनालाई जनसमक्ष लैजान भूमिका खेल्ने प्रस्तोता, प्रसारण संस्था तथा ध्वनिअङ्कन उत्पादकलाई कानूनद्वारा प्राप्त हुने अधिकारलाई तत्सम्बन्धी अधिकार (Related Rights) वा Neighboring Rights भनिन्छ।

प्रतिलिपि अधिकार कानूनले मूलतः स्रष्टा र सर्जकले लामो समय र मेहनत लगाएर सिर्जना गरेका कुनै पनि प्रकारका साहित्यिक, कला, ज्ञानविज्ञान, साङ्गीतिक, नाटक, चलचित्रजस्ता रचनाको फाइदा अरुले हैन स्रष्टाले नै पाउनु र यदि कसैले स्रष्टाको सिर्जनाबाट फाइदा लिन खोजेमा त्यसको लागि कानूनद्वारा स्रष्टाको संरक्षण प्रदान गर्ने कार्य प्रतिलिपि अधिकार कानूनले गर्दछ। नेपालमा पनि प्रतिलिपि अधिकार सम्बन्धी ऐन र नियमले स्रष्टा र सर्जकको पक्षमा संरक्षण गर्नको लागि कानुनी व्यवस्था गरेको छ। सहमति तथा अनुमति नलिई कसैको सिर्जना अनुकरण, पुनरुत्पादन, भाडामा लिन, अनधिकृत प्रयोग गर्न नपाउने कानुनी व्यवस्थाका साथै यदि कसैले सो विपरित कार्य गरेमा कानुनी कारवाही गर्न सकिने व्यवस्था उल्लेखित कानूनमा रहेको छ।

प्रतिलिपि अधिकारले समेट्ने क्षेत्रहरू

किताब, लेख, शोधपत्र, पर्चा, निबन्ध, नाटक, नाट्य सङ्गीत, साङ्गीतिक रचना, Musical composition, चित्रकला, पेन्टिङ्ग, फोटोग्राफ, मूर्तिकला, काष्ठकला, लिथोग्राफी, आर्किटेक्चरल डिजाइन सम्बन्धी रचना, फोटोजन्य रचना, कम्प्युटर प्रोग्राम, वैज्ञानिक लेख रचना, टोपोग्राफी आदि।

प्रतिलिपि अधिकार ऐन, २०५९ मा भएका मूल व्यवस्थाहरू

बर्न महासन्धिसँग Compatible हुने गरी प्रतिलिपि अधिकार ऐन, २०५९ जारी, रचयिताको मूल रचना (Original work) मा प्रतिलिपि अधिकार संरक्षण प्राप्त हुने व्यवस्था, रचना दर्ता

अनिवार्य नभएको (स्वतः संरक्षणको सिद्धान्तलाई अवलम्बन गरेको), रचनाधनीलाई आर्थिक र नैतिक अधिकारको व्यवस्था, प्रस्तोता, ध्वनिअङ्कन उत्पादक र प्रसारण संस्थाको अधिकारबारे कानुनी व्यवस्था, रचयितालाई आर्थिक र नैतिक अधिकार जीवनभर र मृत्युपछि ५० वर्षसम्म रहने, Principle of Fair use को व्यवस्था, अपराधको तहकिकात प्रहरी निरीक्षकले गर्ने, मुद्दा सरकारवादी हुने, कारवाही किनारा गर्ने अधिकार सम्बन्धित जिल्ला अदालतलाई हुने, ऐनको उल्लंघन भएमा जरीवाना र कैदको व्यवस्था आदि।

बौद्धिक सम्पत्तिको महत्वलाई स्वीकार गरी विभिन्न अन्तर्राष्ट्रिय सन्धि र महासन्धिको निर्माण भई कार्यान्वयनमा रहेका छन्। नेपाल पनि त्यस्ता विभिन्न सन्धि महासन्धिको सदस्य भई तिनको पक्षमा कार्यरत रहेको छ। प्रतिलिपि अधिकार ऐनले स्रष्टाका सिर्जनाको विकासलाई प्रोत्साहन गर्ने, त्यस्ता सिर्जनाबाट सामाजिक तथा आर्थिक उद्देश्यहरू हासिल गर्ने, तिनको माध्यमबाट राष्ट्रको छवि विश्व समुदाय समक्ष पुऱ्याउने, स्रष्टालाई आफ्ना सिर्जनामा एकलौटी कानुनी अधिकार स्थापित गराउने र नैतिक, चरित्रवान र स्वच्छ, समाजको स्थापना गर्ने अन्तरनिहित उद्देश्यहरू राखेको पाइन्छ। नेपालमा छोटो समयमै स्रष्टाको पक्षमा प्रतिलिपि अधिकार संरक्षण सम्बन्धी विभिन्न सञ्चालनीय कार्यहरूको आरम्भ भएको छ। हुनत यी कार्यहरू वर्तमान अवस्थामा पूर्ण भने छैनन्। तर पनि यस्ता प्रयासलाई सकारात्मक रूपमा लिन सकिन्छ। आम स्रष्टा र सर्जकको हितमा सरकारी निकाय, सम्बद्ध सरोकारवाला र यस विधासँग सम्बद्ध निजी क्षेत्र पनि कम्मर कसेर लागि परेको अवस्थामा सबैले अझ बढी एकजुट भएर संरक्षणका प्रयासलाई अगाडि बढाउन सकेको खण्डमा नेपालमा प्रतिलिपि अधिकार सम्बन्धी कानूनको उद्देश्य पूरा हुने कुरामा आशावादी हुन सकिन्छ।

Beijing Raid Expected to Lead to Criminal Charges in China's First Internet Copyright Infringement Case

On October 25, 2007, following 20 months of investigation, the Beijing Public Security Bureau raided several business premises belonging to Jin Hu Dong Technology Company Ltd., a company suspected of illegally licensing film copyrights for distribution via the internet. Three suspects were arrested and are expected to be charged with copyright infringement and other crimes. The suspects, and Jin Hu Dong Technology, are believed to have illegally licensed thousands of foreign and Chinese film titles, including several hundred MPA member company titles. Jin Hu Dong Technology is believed to have generated illegal business revenue of over \$20 million through its actions. The case is the first in China involving criminal copyright licensing fraud, and also the first criminal case involving film copyright infringement via the internet.

<http://www.make-a-difference.sg>

File Sharers Faires Attention!

The French National Assembly has voted to impose a three strike law for illegal file sharing following a final debate where many deputies failed even to appear. This law includes provision for setting up a 'High Authority' that will monitor internet usage and ultimately decide whether access is blocked and for how long. The flexibility is to avoid the situation where an entire institution lacks internet access because of the illegal activities of a single student or member of staff. The new law could still be challenged under the French Constitution and the European Parliament; however

it is expected that this effort may abolish the illegal file sharing activities in the future.

<http://www.out-law.com/default.aspx?page=9927>

Behave in Behavioural Advertising

Google, Microsoft Advertising, Yahoo! SARL and Phorm have signed up to adhere to guidelines produced by the Internet Advertising Bureau in order to prevent behavioural advertising breaching online users' rights to privacy. The guidelines state that advertisers let users know that their data is being collected, for what purpose, that users have a choice about receiving any advertising and that they can clearly and easily opt out of it. This guidance will encourage good practice for any institutions that do, or are considering, targeting advertising at students or staff through their online use.

<http://www.out-law.com/default.aspx?page=9844> "t "_blank"

Definitive Domain Dispute

The dispute resolution panel of the World Intellectual Property Organisation (WIPO) has concluded that a domain name, 'volvospare.com' can be retained by a seller because of a legitimate interest in its *bona fide* use and unlikely confusion with the official Volvo website. There was no requirement for the seller to be the trade mark holder or have permission from the holder to own a domain name related to the mark. This ruling serves as a reminder to institutions to ensure all relevant domain names are registered to prevent similar disputes arising.

<http://www.out-law.com/default.aspx?page=9823>

Q-A Column

1. What is the rationality for protecting copyright?

There are various logics for the protection of copyright. Copyright and its related rights are essential to human creativity, by giving creators incentives in the form of recognition and fair economic rewards. Under this system of rights, creators are assured that their works can be disseminated without fear of unauthorized copying or piracy. This in turn helps increase access to and enhances the enjoyment of culture, knowledge and entertainment all over the world.

2) How can copyright be obtained? Are there any formalities?

It is an almost universally accepted principle that the protection of authors' rights flows automatically from the act of creation and does not depend upon any formality. In this respect, copyright differs considerably from other forms of intellectual property protection such

as patents, models or trademarks. The Nepalese Copyright Act, 2002 also has introduced the voluntary registration system for the protection of copyright. This means, there is no any formality for the copyright protection.

3) What happens when the copyright expires?

As per the Nepalese Copyright Act, 2002, more than 50 years after the author's death, the work goes to the so-called public domain. This means that everyone may use the work freely. However, it should be mentioned that in some countries, after the author's death, his so-called moral right still exists and must be respected by everyone who wants to use the work. In some countries, when copyright has expired, fee is required for publishers who want to produce such a work for a public purpose. So, the work under public domin may use within or without the conditions. These limitations are affixed by the national copyright law as per the guidance of international

treaties and conventions.

4) Who owns the copyright on computer software prepared by several creators?

When several people participate in the creation of a computer program, their rights vary according to their respective parts in the creation process. People whose role only consists in performing tasks directed by a third party's instructions cannot claim any copyright on the computer program. Indeed, the form of the program will only depend upon the third party's instructions.

When several people actively participate in the determination of the form of a computer program, the copyright thereon will be shared between them (joint ownership). Any decision relating to the exploitation of the computer program of joint ownership requires consent of all the authors. In case of disagreement between the creators, courts will decide and the decision of the court will be final.

Interaction Program with Film Makers

Nepal Copyright Registrar's Office (NCRO) organized a one day interaction program in Kathmandu on Feb. 7, 2009 with film producers, directors, owner of cinema halls and related others. The objective of the program was to find out the problems of film sector especially in

the context of copyright. In his paper, Mr. Yadav Kharel, senior film director and lyricist clarified the situation of film industry, trend of piracy and problems of film makers. He showed necessity of coordinative effort for the prevention of unauthorized production and use of copyrighted films. Mr. Bir Bahadur Rai, Registrar, NCRO requested all the people of film industry to assist government for the protection of filmy creations. Speaking at the program, Mr. Narayan Prasad Aryal, Section Officer, NCRO asked for help to make broadcast of a informative advertisement that was prepared by NCRO recently. Mr. Ashok Sharma, President, Nepal Film Producers Association made his commitment to assist NCRO in the activities of copyright protection. Mr. Raj Kumar Rai, Dabhu Kshetri, Pragya Joshi, Keshab Bhattarai and Tulasi Giri had emphasized the need of consciousness programs and coordinative actions to minimize the level of piracy in the field of film sector.

Study Committee Formed

As per the decision of Ministry of Culture and State Restructuring dated March 1, 2009 a seven-members committee led by Mr. Bir Bahadur Rai, Registrar, NCRO has been constituted to find out the rationality of acceding WIPO Copyright Treaty (WCT). The other members of the committee are Damodar Regmi, Under Secretary from the same Ministry, Dr. Bal Bahadur Mukhia, an expert of Copyright, Binod Dhakal, General Secretary of Computer Association of Nepal (CAN), Shree Purush Dhakal, senior lyricist, Narayan Prasad Aryal, Section Officer, NCRO and Shiva Prasad Khanal, Legal Officer of the same office. The committee will find out the positive and negative

aspects that Nepal faces after acceding the WCT. It will submit the final report to the Ministry within three months.

Preparation of Informative Advertisement

Nepal Copyright Registrar's Office (NCRO) has prepared two informative audio and an audio-visual advertisement recently. Senior artists Mr. Madan Krishna Shrestha and Haribansha Acharya have helped the office by performing their role in the audio-visual advertisement. The objective of the preparation of such materials is to provide more and more knowledge for all the concerned about copyright and related rights.

Assistance for Students

Nepal Copyright Registrar's Office (NCRO) has selected three students studying in LLM level in different colleges for the purpose of providing assistance for their research in different subject matters related to copyright. They have already submitted detail proposal of the study and are going to finalize their research within some months.

Broadcasting of Advertisement

Nepal Copyright Registrar's Office (NCRO) has made broadcaste of a copyright related audio material by a Radio named Mirmire. The objective of broadcasting of such informative material is to make the people more aware about copyright.

Notice for Study

Nepal Copyright Registrar's Office (NCRO) has finalized all the procedures to make an agreement with the related institutions for the study of Folklore of Gurungs of Western Development Region, Unauthorized use of Musical Productions in Kathmandu Valley and Level of Piracy of Computer Software in Kathmandu.

Copyright Programs Held Jointly

Nepal Copyright Registrar's Office (NCRO) has supported different



organizations to conduct programs jointly relating to copyright and related rights. According to the policy of public-private partnership, the office has provided some amount for the relevant organizations likely Music Royalty Collection Society Nepal (MRCSN) and Nepal Creators Society (NCS) to discuss about the issues of royalty collection, distribution and others.

Subsidy to MRCSN

Nepal Copyright Registrar's Office (NCRO) has provided subsidy of one hundred thousand to Music Royalty Collection Society Nepal (MRCSN) for the operation of its organization. The society is actively working to finalize the procedure of royalty determination, collection and distribution.

Request to the Ministry of Communication

As per the complaints by copyright owners, Nepal Copyright Registrar's Office (NCRO) has requested to the Ministry of Information and Communication to give necessary direction for all the broadcasting organizations including TVs and Radios to mention the names of all the creators and performers including lyricist, music composer and singer as well necessarily while they play music. The office has also requested the Ministry to direct them to mention the source and name of journalist of the matter published in the newspapers while they broadcast such matters from their TVs and Radios.

Taskforce for a Study

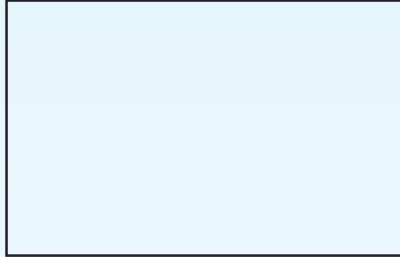
As per the decision of Ministry of Culture and State Restructuring dated March 1, 2009 a nine-members taskforce led by Mr. Bir Bahadur Rai, Registrar, NCRO has been constituted to find out the provisions that need amendment existed in the Nepalese Copyright Act, 2002 and Regulation, 2004. The other members of the Committee are from different relevant Ministries, NCRO and experts of the same field. The taskforce will submit its report to the ministry within three months.

Other Activities

- Nepal Copyright Registrar's Office (NCRO) has monitored different places of the country including Ilam, Dhankuta, Baglung, Kailali, Kanchanpur, Pyuthan and Kavre districts. The office has also monitored the different market places of Kathmandu Valley.
- Nepal Copyright Registrar's Office (NCRO) has distributed different informative leaflet, brochure, calendar and other materials in different areas of the country regularly.
- A lot of problems facing by different copyright holders have been easily settled down in the initiation of Nepal Copyright Registrar's Office (NCRO) in separate periods.

Training for Librarians on Copyright

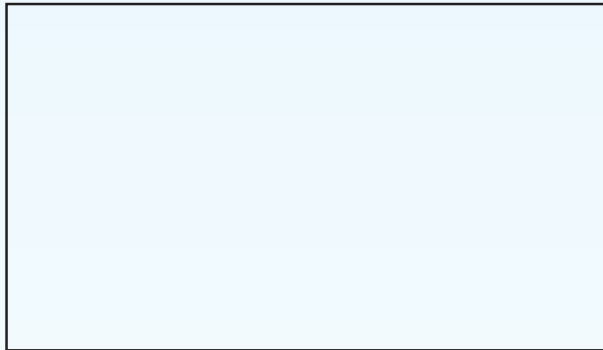
Nepal Copyright Registrar's Office (NCRO) organized a one-day training for the librarians who were working in different governmental organizations, colleges and



private institutions situated in Kathmandu valley on November 25, 2008 in

Kathmandu. It was very necessary to provide knowledge about copyright for the librarians who regularly work with books, research papers, newspapers and information technology as well. Mr. Bir Bahadur Rai, Registrar, NCRO presenting his paper asked all the participants for help in the protection of economic and moral rights of real authors. Mr. Narayan Prasad Aryal, Section Officer, NCRO, requested them try their best to prevent the students by making copies of the original books and research papers in a large volume. Mr. Shiva Prasad Khanal, Legal Officer of NCRO had also presented his ideas in the program.

Copyright Training for College Teachers



requested the teachers and authors as well to be conscious about their right, right of others and their duty for the protection of copyright especially by providing knowledge about the concerned subject for the large number of students. Dr. Bal Bahadur Mukhia, an expert highlighted the different aspects of copyright, major international treaties and conventions and the challenges of protection. Three discussion papers had been presented in the program. A lot of valuable suggestions and ideas were raised by the participants at that occasion.

Thirty teachers working in different governmental and non-governmental colleges of Kathmandu valley represented a training about copyright that was organized by Nepal Copyright Registrar's Office (NCRO) in Kathmandu on November 28, 2008. Mr. Bir Bahadur Rai, Registrar, NCRO

Far Western.....

program, Mr. Bir Bahadur Rai, Registrar, NCRO clarified the objective of the program and expressed his happiness for the presence of two hundred enthusiastic people of the region. Mr. Ramlal Joshi, Chairman of the opening ceremony asked the government for the protection of land given already to their organization called 'Far Western Literature Society'. Mr. Padam Raj Joshi, Govinda Shrinkhala, Bir Bahadur Jethara and Shrestha Priya 'Pathar' had also expressed their views in the program.

Two papers were persecuted in the symposium. Mr. Bir Bahadur Rai, Registrar, persecuted a paper entitled "Situation of Copyright Law Enforcement in Nepal, Role of NCRO and the Areas of Reform". The session was chaired by

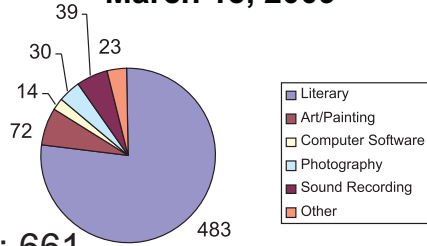
Honorable District Judge Bir Singh Mahara and Dr. Hemraj Panta was the commentator of the paper. Dr. Padam Raj Joshi Presented a paper entitled "Copyright: Need of Protection and the Role of Creators". The program was chaired by Mr. Bhim Bahadur Bohara, Campus Chief, Far Western Multiple Campus and Mr. Dharmananda Nath, Chief, District Attorney General made his comment upon the paper. Mr. Anil Pandey, Harka Gharti Magar, Krishna Rawal, Basudev Regmi, Bishnu Awasthi and Manju Mishra had also expressed their views upon the papers. The whole program was conducted by Mr. Narayan Prasad Aryal, Section Officer, NCRO. About two and half dozen books were registered in Dhangadhi during the period of the program.

Discussion Program in Baglung

According to the policy of disseminating information about copyright and related rights in new areas, Nepal Copyright Registrar's Office (NCRO)

reached at Baglung Bazar, the headquarter of Dhaulagiri zone on Dec.9, 2008. NCRO organized a coordinative discussion program in Baglung, a highly rich area of literature and culture. Speaking at the program, Mr. Umesh Kumar Singh, Chief District Officer, Baglung and Pradip Kumar Shrestha, Chief, District Police Office made their commitment to be more sensitive for the protection of the right of copyright owners. The two highly recognized personality of literature named Prem Chhota and Kaji Roshan expressed their thanks to NCRO for organizing the program in their region. Mr. Padma Nath Sharma, senior advocate advised government to establish the wing of NCRO in local level. Mr. Bir Bahadur Rai, Registrar of NCRO requested all the participants not to undermine the value and importance of their literary and artistic creations. He also expressed his view that creations are the bases of nation building. Mr. Deepak Gautam, Bishnu Raj Atreya, Raju Gautam, Mahendra Nepal, Lakhana Rajbhandari, Tej Prasad Niure and Shantu Shrestha had also expressed their ideas in the program.

Registration of Creations up to March 13, 2009



Copyright Training in Ilam

A one-day training on copyright and related rights was organized in Ilam, a very beautiful hilly district of Eastern Development Region by Nepal Copyright Registrar's Office (NCRO) on December 24, 2008. More than sixty people from different copyright law enforcing agencies, non-governmental organizations related to literature and art, colleges and individuals who were active in the business of copyright based materials

had participated in the training. Mr. Narayan Prasad Aryal, Section Officer, NCRO highlighted the objective of the program. Speaking at the program, Mr. Bhim Prasad Dhakal, Chief Police Officer and Rewati Raman Pokharel, for Chief District Officer made their commitment to give priority for the cases of copyright violation. Mr. Pokharel requested creators not to be afraid to file petition in police if they were facing such problems. Mr. Bir Bahadur Rai, Registrar, NCRO presenting his paper tried to assure the creators that government is continuously doing its best for the protection of their rights. Dr. Nrishing Khatri while presenting a paper from local level showed the actual picture of Ilam in the context of copyright. Mr. Kiran Mukhia, Bishnu Prasad Ghimire, Basant Kumar Basnet, Buddi Prasad Ghimire, Himalaya Trital, Debraj Ghimire, Kesh Bahadur Rai, Diwakar Bhandari, Laxmi Mishra, Gita Bishwakarma and Urmila Subedi had also expressed their views in the program.

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प्रतिलिपि अधिकार बुलेटिन नेपाल प्रतिलिपि अधिकार रजिष्ट्रारको कार्यालयबाट निःशुल्क वितरण गरिन्छ । यस बुलेटिनका सम्बन्धमा यदि तपाईंको कुनै जिज्ञासा वा सुझाव छ भने हामीलाई यस ठेगानामा सम्पर्क गर्न नबिर्सनु होला ।

Editorial

Need of Collective Effort

From upcoming year 2066 B.S., Nepal Copyright Registrar's Office (NCRO) is going to complete its fifth year of establishment and is entering into sixth year. First time, it was established separately on 2061 B.S. under the then Ministry of Culture, Tourism & Civil Aviation. From the very beginning, Nepal Copyright Registrar's Office is highly sensitive to protect the rights of creators. The germination of creation is an important as well as sensitive subject matter. In a long time, a creator can create his/her creation, but every people can not create all kinds of creations easily like lyric, music, artistic and other literary works. A creation is not only the issue of an individual but also the concern of economic, social as well as cultural enhancement of a nation. A creation guides society to make a good nation and it helps to bring positive effect upon the citizens. The history of establishment of Nepal Copyright Registrar's Office (NCRO) is not so long, but it has been performing different activities to protect and promote the rights of creators very actively. Because of growth of science and technology, our life has become easier. On the other hand, it is raising the different unauthorized activities too simultaneously. Different creators and users are suffering from the counterfeit production. Likewise, it is necessary for the proper implementation of copyright law for the development of creativity. Copyright Office has been conducting different activities like training programs for the law enforcing agencies, discussion programs with stakeholders and other seminars too. But it is not being sufficient to address the problems of all kinds of creators. Nepal Copyright Registrar's Office has been providing high priority for the elimination of unauthorized activities and promotion of all creators' creations through coordinative approach. There are many issues and problems (like piracy, unauthorized copying, photocopy etc.) rising in the field of copyright. So, NCRO is playing a role of facilitator to conduct different activities and implement the copyright law effectively. For the effective implementation of copyright legislation, stakeholders (creators, law enforcing agencies, NGOs) must join their hands with the very aim of protection of creations. When all stakeholders and creators work abreast to protect the right of creators and for proper implementation of copyright act and rule, the illegal and unauthorized works will scale down automatically. Therefore, all stakeholders and Copyright Office should go together to handle the copyright issues and other related aspects as well as better implementation of law and to control illegal practices.

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