

## COPYRIGHT

There has been considerable concern expressed particularly among the leading companies engaged in producing movies and videos regarding protection of copyrights. Whilst there is provision in our code to protect cinematographic, radiophonic and audio visual works it has been felt by most of the leading companies engaged in producing movies and videos that the present provisions are inadequate. In fact videos are not specifically mentioned in the definition as it is done in certain other jurisdictions such as in India (See Section 2 of Act 38 of 1994). In regard to records and video films it may be desirable to make provisions for certain provision to be displayed on the record or in any container thereof including the name and address of the person who made the record, the name and address of the owner of the copyright and the year of its first publication (See 52 (a) of the Indian Act). Certain countries have made more detailed provisions relating to infringement of video and cinematographic and other works which are protected by copyright. For instance in South Africa the nature of copyright in literally musical work, artistic work, cinematographic work, sound recording, broadcasting, computer programs, programcarrying signals have been exhaustively dealt with. Again in Australia importation and sale of articles, which infringes copyright, has been specifically made an offence (Section 112).

There is also an urgent need to specifically include computer programs in the definition.

Several jurisdictions have attempted to define Computer and Computer Programs Such definitions occur in Section 2 ff b & ff c of the Indian Act and Section 1 of the South African Act. In view of the fact that there is considerable interest presently shown in matters such a cable television and satellite television it may be necessary to define terms such as emit signals, drive signals, definition services and associated terms and the nature of copyright in broadcasting and programs carrying signals be further clarified. In this connection sections 10 & 11 of the South African Act may be of some use.

In view of the fact that there is considerable difficulty for students and teachers of institutions to obtain access to relevant books and material it may be necessary to consider whether more detailed provisions should not be made in regard to copying of educational periodical and articles by educational institutions etc. Very extreme provisions are made in the Australian Act.

In view of the fact that there is a wide spread copying of audio recording, whether a royalty should be charged in respect of blank tapes is also a matter which is to be considered (vide New Zealand and the Australian Act).

Problems could also be raised where there is a conflict between designs and copyright Act and whether provisions should be specifically made to deal with such situations.

In view of the provisions on the TRIPS Agreement provision should be made by Affidavit.

In view of the advance in technology should any statue such as a Circuit Layout Act be introduced?

The English Sales of Goods Act 1893 which was drafted by Sir Mackenzie Chalmers in 1888 was intended to apply the Common Law Jurisdiction in England. There was some

doubt as to whether the previous law could be applied and the matter was resolved by the House of Lords decision in Bank of England vs Vaglian Brothers.

The Sales of Goods Act of 1979 like its predecessors of 1893 applied to contract for the Sales of all types of goods. The object of this Act in contrast to the 1893 Act was to consolidate the existing statutory law, that is to present the whole body of such law in complete form repealing the form of statute. The 1893 Act did not make distinction between Common Sales and Private Sales, Merchants Sales and Retail Sales and sales between new and second hand sales. The Sri Lanka Goods Ordinance is based on the English Act of 1893.

The Special Committee which explained the amendments to the Indian Sales of Goods Act observed as follows: -

"In adopting the provisions of the English Act, we have not been un-mindful of the needs and exigencies of this country. Wherever it has been found that a rule obtaining in England, such as that relating to market overt is not suitable to Indian conditions, the rule has been rejected. We have moreover, carefully scrutinized the provisions of the English Act in the light of the decisions of the English Courts since 1839, and where decisions have shown the provisions of the English Act to be defective and ambiguous, we have attempted to improve upon the. We have also retained several of the provisions of the Indian Contract Act which we consider necessary or useful to meet specific conditions existing in India".

Recent amendments to the English Sales of Goods Act could also be relevant subsequently to the U.K. Law Commissions report of 1897 (Cmmd 137). The amendments have been made in respect of Merchantable Quality (Section 14(2)A 14(2)B) modifications of remedies of breach of conditions for non consumer sales (Section 15A) and the rules regarding the passing of property of unascertained goods forming part of an identified bulk (Section 20A 20B).

Therefore it will be necessary to update our law on similar lines.

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