

DATAQUEST

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What you should know about copyright and licensing

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Q: We are a software firm located in Bengaluru and have several products developed in-house. In fact there are 3-5 versions of each product.

Is it essential to register copyright for all of them? I saw copyright notice on various websites and products. Can this notice be used only when copyright has been registered?

It is important to know that copyright gives protection for the expression of an idea and not for the idea itself.

An international treaty on copyright-Berne Convention, under which India is a member, does not require registration of copyright as an essentialist for protecting the right. It would, therefore, mean that the copyright on a work would be automatic, and would simultaneously be protected through

copyright not only in India, but also, in all the members (countries) of the Berne Convention. Since copyright is inherent in nature, the legal notice of copyright can be used on website or any other product, book or article, without any formal registration of copyright with Copyright Registry.

Copyright notice on the work, serves as an express notice that work is protected by the copyright law. Even though formal registration of copyright is not needed to put the copyright notice, registration of copyright is necessary to serve as a proof of ownership in case of any infringement. The proper copyright notice informs the public that the work is protected by copyright, indicates name of the copyright owner/first year of first publication of the work and certainly has added advantages in case of copyright infringement. The commonly used legal notice has the following format: Copyright © 2012 XYD entertainment. All rights of the produced and owner of the CD content reserved.

Unauthorized copying, public performance and broadcasting of this content/recording is prohibited and punishable under Copyright Act, 1957.

In case of any dispute or litigation, the certification of copyright registration can be produced in the court as a prima facie evidence of ownership-it is an authentic proof of valid title and ownership. In some jurisdictions, copyright registration is a prerequisite, therefore, when a work is being used commercially/publicly, it is important to get copyright registration. However it is highly recommended to put copyright notice on the work, even if it is not registered.

The matters concerning creation of software are often protected under a copyright. Since software falls into two classes, it must be registered under the two different applications. In terms of computer software program, it is essential to have copyright because the copied work looks identical to the original work and it is extremely difficult to differentiate between the two.

If you have multiple versions of the same product, it is advisable to go for copyright registration separately for substantially updated version of the same product at Copyright Registry located in New Delhi. Since the program code falls into literary class, three copies of the printed code is submitted along with the application for registration of copyright.

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