



CIVIL

Design Vs. Copyright: SC's Cryogas Judgment Creates Definitive Twin Test

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Introduction

The Supreme Court of India has provided much-needed clarity on the distinction between copyright and design protections under Indian law. The case, Cryogas Equipment Private Limited and Others versus Inox India Limited and Others, has been pivotal in elucidating the boundaries between intellectual property (IP) regimes, particularly in the context of industrial designs and artistic works. The Court has established a twin test to determine the applicability of Section 15(2) of the Copyright Act, 1957, which addresses the overlap and friction between copyright and design protections

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Background of the Case

The dispute originated from a lawsuit filed by Inox India Limited (Inox) against Cryogas Equipment Private Limited (Cryogas) and LNG Express India Private Limited (LNG Express) for alleged copyright infringement. Inox claimed that the defendants had infringed its proprietary engineering drawings and literary works related to the design and manufacturing of cryogenic storage tanks and distribution systems mounted on trailers and semi-trailers. These drawings and descriptions were allegedly developed by Inox to meet specific requirements for storing and transporting liquefied natural gas (LNG) and other industrial gases.

Inox sought relief in the form of a declaration of infringement, permanent injunctions against the use or reproduction of similar drawings or works, an order for the surrender and destruction of infringing materials, and damages amounting to Rs. 2 Crores. However, LNG Express countered that the drawings in question were “designs” under the Designs Act, 2000, and thus not eligible for copyright protection under the Copyright Act, 1957. They argued that since these designs had been industrially reproduced more than fifty times, Inox had lost its copyright claims under Section 15(2) of the Copyright Act.

The Copyright-Design Overlap Problem

At the heart of this dispute lies Section 15(2) of the Copyright Act, which stipulates that copyright protection ceases for any design that is registered under the Designs Act. Furthermore, if a design is capable of being registered under the Designs Act but is not so registered, copyright protection ceases once the article to which the design is applied has been reproduced more than 50 times by an industrial process. This provision has created significant confusion among creators, manufacturers, and legal practitioners about which protection regime applies in cases where artistic works are also industrial designs.

Legal Question and the Court's Intervention

The key legal issue before the Supreme Court was “When does an artistic work, reproduced industrially, cease to enjoy copyright protection under Section 15(2) of the Copyright Act?”

This provision states that if an artistic work is capable of being registered as a design and is reproduced more than 50 times by an industrial process, copyright ceases unless the design is duly registered under the Designs Act.

The Supreme Court's Twin Test Judgment

The Supreme Court's judgment delved into the intricate relationship between the Copyright Act and the Designs Act. The Court clarified that while both legislations aim to protect creative works, they serve distinct purposes and apply to different types of creations.

To navigate this complex interface, the Court laid down a two-pronged test:

1. **Capability Test:** Determine whether the work qualifies as a design under Section 2(d) of the Designs Act. This involves assessing if the work relates to features of shape, configuration, pattern, ornament, or composition of lines or colors, applied to an article through an industrial process, which appeals to and is judged solely by the eye.
2. **Functionality Test:** If the work does not qualify for copyright protection, the test of “functional utility” will be applied in order to determine the dominant purpose of such work under concern. If the primary purpose is functional rather than aesthetic, the work may qualify for design protection under the Designs Act.

Only when both these conditions are fulfilled, copyright under Section 15(2) ceases unless the design has been registered.

As stated by the Supreme Court, “This test shall consider: (i) whether the work in question is purely an ‘artistic work’... or a ‘design’ derived from such original artistic work and subjected to an industrial process; (ii) if such a work does not qualify for copyright protection, then the test of ‘functional utility’ will have to be applied...”

Key Principles Established in the Judgment

Beyond the twin test, the Court clarified several important principles:

1. **Intent of Section 15(2):** The Court held that Section 15(2) of the Copyright Act, which bars copyright protection for designs capable of being registered under the Designs Act once industrially reproduced more than fifty times, applies only to designs, not artistic works per se. The legislative intent was to harmonize the two statutes, ensuring that while artistic works enjoy copyright protection, their industrial application (i.e., designs) is subject to the limitations set out in Section 15(2).
2. **Definition of “Artistic work” and “Design”:** The Court emphasized that the term ‘artistic work’ under Section 2(c) of the Copyright Act has a broad connotation, encompassing even abstract works such as diagrams or drawings, regardless of their visual appeal.

In contrast, a ‘design’ under Section 2(d) of the Designs Act is defined as features of shape, configuration, pattern, ornament, or composition of lines or colors applied to an article through an industrial process, appealing to the eye.

3. **Functional vs. Aesthetic Elements:** The judgment distinguished between purely functional elements (which generally fall outside design protection) and aesthetic elements incorporated into functional items (which may receive protection) and adopted the ‘functional utility’ test, which assesses whether the primary purpose of a work is functional rather than aesthetic. If a design is primarily functional, it does not qualify for protection under the Designs Act.

This test aligns with international principles and the approach taken by courts in the United States, ensuring that only designs with aesthetic appeal are protected under the Designs Act.

4. **Technical Drawings:** The Court clarified that technical drawings themselves retain copyright protection as artistic works, even when the article depicted in those drawings may be subject to design law when produced industrially.

Significance of the Judgment

1. **IP Strategy for Industries:** This decision is pivotal for sectors like automotive design, fashion, textile, and industrial equipment, where creators must now assess whether to register designs under the Designs Act when planning large-scale reproduction.
2. **Clarity for Courts and Litigants:** The twin test provides a clear benchmark for lower courts and IP litigants to assess when copyright ceases and design law kicks in.
3. **Preventing Dual Monopoly:** The ruling reinforces legislative intent, preventing long-term copyright protection for designs meant for mass reproduction, which should be protected under the limited-term monopoly of design law.

Conclusion

The Supreme Court’s decision has marked a significant milestone in Indian Intellectual Property law. By laying down a structured and harmonized approach through the twin test, the Court has clarified the blurry line between artistic expression and industrial design. This judgment not only resolves the immediate dispute between the parties but also lays down principles that will guide future intellectual property protection strategies and dispute resolution in cases involving the overlap between artistic works and industrial designs.

As businesses increasingly rely on design innovation for competitive advantage, this clarification of the legal framework is both timely and essential for fostering innovation while ensuring appropriate protection for creators. This judgment will undoubtedly shape future IP disputes, ensuring that the delicate balance between artistic expression and industrial utility is maintained within the framework of Indian law.

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