

ArtIP

Art of creating Intellectual Property

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**INTERNATIONAL
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ArtIP - Art of creating Intellectual Property ("IP")

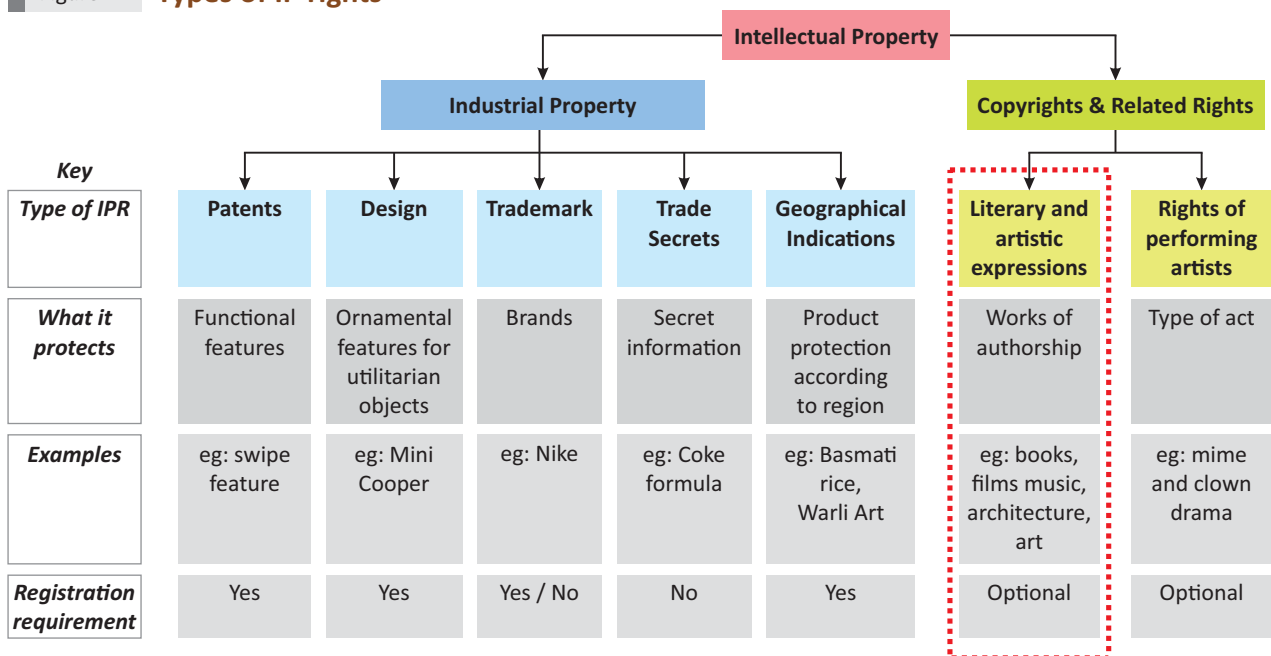
What are IP Rights?

An Artist creates Art. The Art created, is the physical reality of the intangible thought process, skill, ideas and tacit knowledge that has resulted in the unique combination, arrangement of shapes, textures and material that are part of Artwork created. These intangible elements of the Art are protected as Intellectual Property Rights ("IPRs"), which command premium value.

Visual arts including fine arts (drawings, paintings, photographs, sculptures or prints), applied or decorative arts and crafts and art created by digital media are discussed here.

Figure 1 provides an overview of the types of IPRs, what they protect, instances as well as requirement of registration to get protection.

Figure 1 **Types of IP rights**



Copyright protection for Art in India

The Copyright Act, 1957 governs the subject of copyright law in India. Copyright protects original work from being reproduced without permission. Copyright consists of a bundle of multiple rights in the same work. It is immaterial whether the work has any artistic/ aesthetic merit.

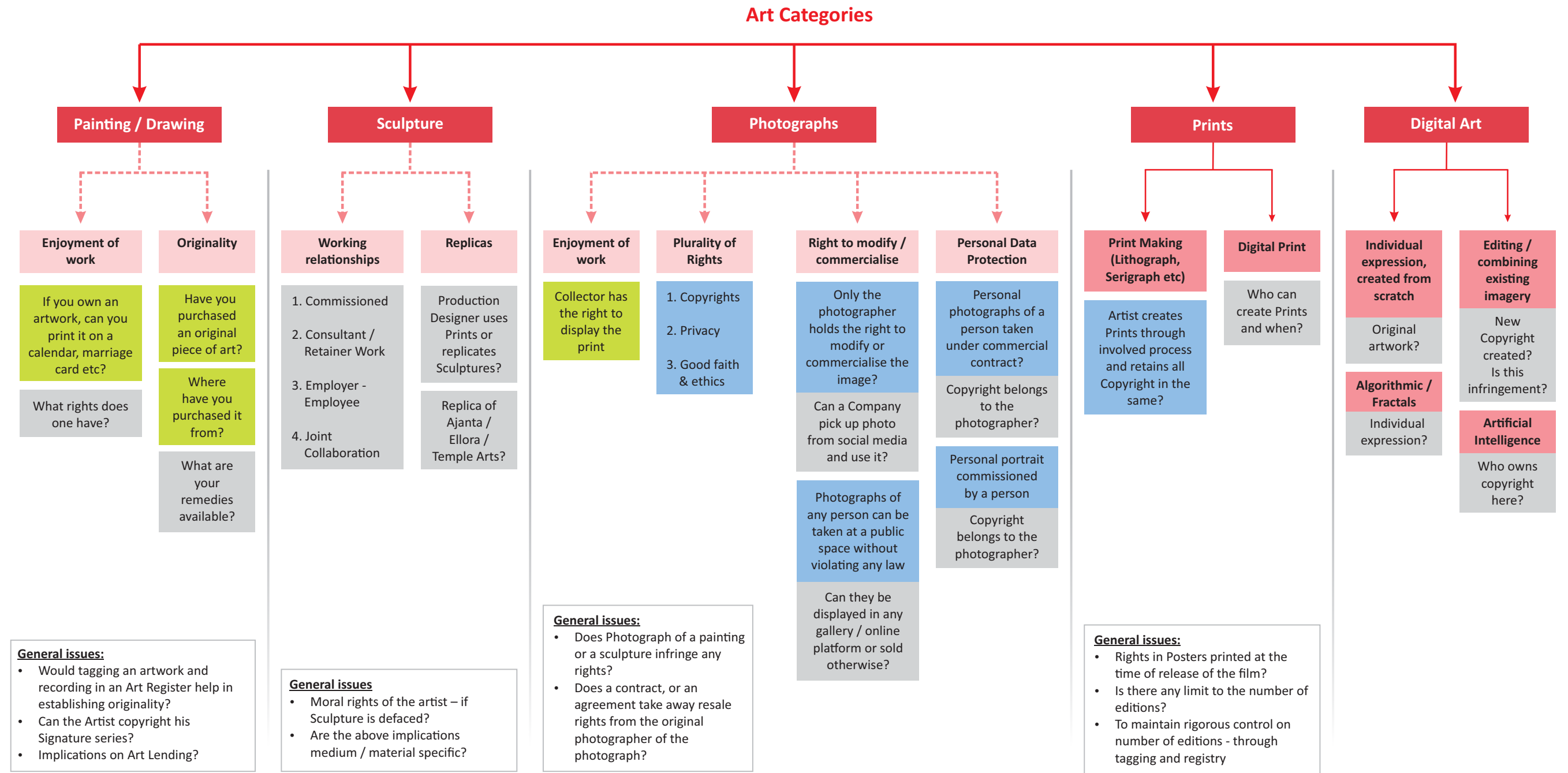
Copyright exists in a work upon creation of the work and originally vests in the author of the work, whether the registration is done or not. Maintaining records in the process of creation, registering with Copyright office of India or affixing the date of creation next to the author's name on the work adds protection.

In the case of an artistic work, copyright means the exclusive right:

- To reproduce the work;
- To communicate the work to the public;
- To issue copies of the work to the public;
- To include the work in any cinematograph film;
- To make any adaptation of the work.

The term of copyright depends on the type of work. Generally, copyright in published artistic work lasts for 60 years from the year following the death of the artist.

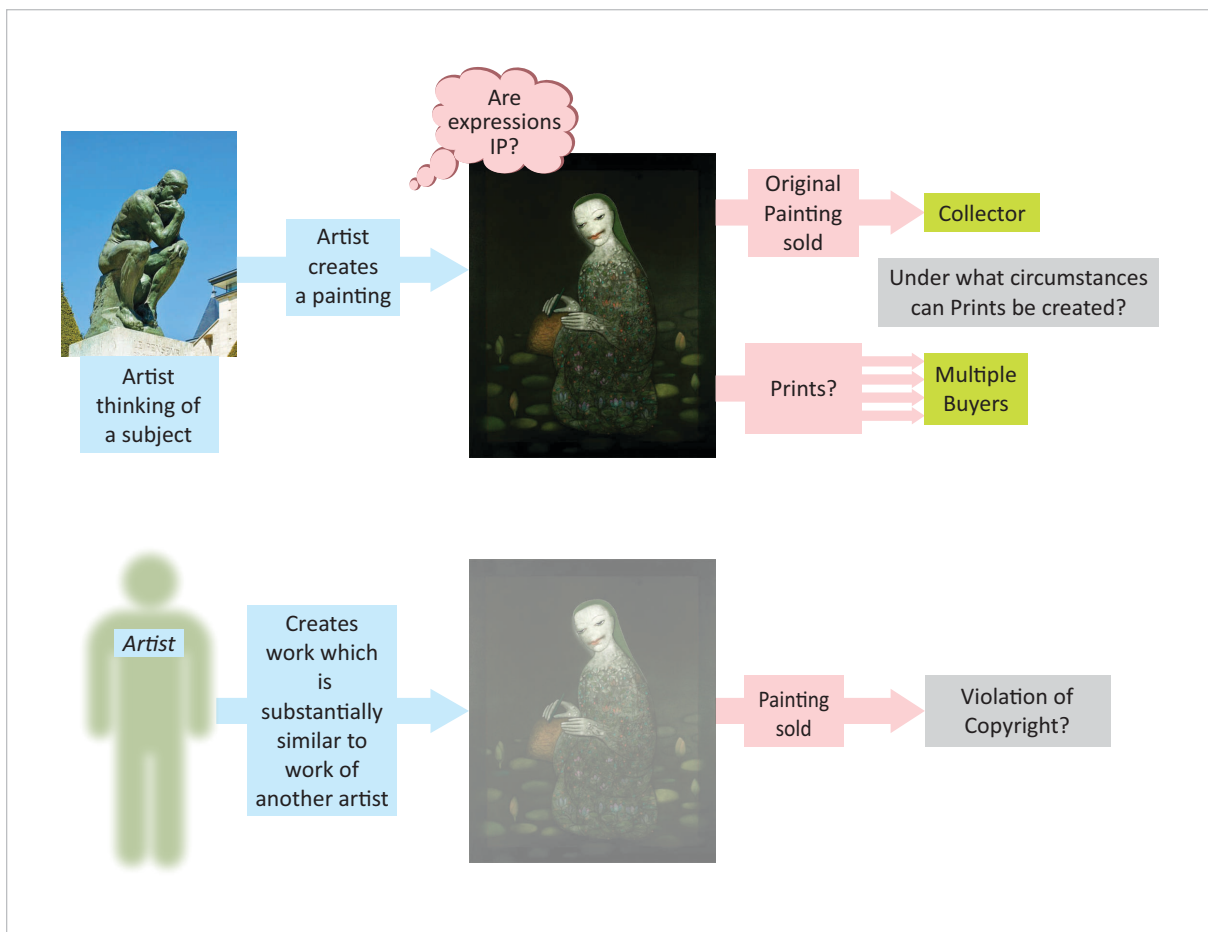
Figure 2 Summary of select issues / considerations under each category of artwork



Key stakeholders in a typical Art transaction

Typical Stakeholders are an Art Collector, a Gallery, an Artist (and in some cases, the Artist's Successor). Most of these stakeholders are operating in isolation, often unaware of the impact their actions have on one another.

Figure 3



Key considerations / takeaways

- 1 Due to the nature of copyright being automatically attributed, keeping sketches and other related material is useful evidence to prove you are the author. Registration with a private register – like the Art Collection Management Tool, developed as part of Art Infrastructure Solutions – could also be helpful. Another useful, but not compulsory, method may be to affix any reference to your copyright next to your name.
- 2 The intent of this Publication is to broadly lay out the basic legal framework in India, pertaining to Intellectual Property in Fine Art and to highlight some of the practical issues – to serve as a backdrop for further industry-wide deliberations on the subject. It is prepared for educational purposes and not as advice. Legal advice may be sought for specific issues.

Aura Art Development Pvt Ltd (AADPL)

AADPL was incorporated in 2008 with a view to further develop artists of calibre, culture of collecting art as well as art infrastructure in India. Having successfully modeled a framework for developing artists, AADPL is now set to solve the next big hurdle for orderly development of the Indian Art Market. As there is a greater appreciation of art and cultural objects, a better understanding of their economic value and increased sensibility of the irreplaceable historic value encapsulated in them, the need is felt, more than ever before, to manage these Cultural Assets better. This calls for an integrated approach, significant research and collaborations between multiple stakeholders.

AADPL is delighted to launch **www.artinfrsolutions.com**, as a one-stop-shop for all needs of Art Collectors, Corporates, Artists, Museums, Government and other Institutions (including palaces, temples, religious and spiritual organisations etc), to offer the following key services:

- Documenting Collection
- Art Collection Management Tool
- Tagging Artworks
- Valuation and Insurance Advisory
- Conservation and Restoration
- Warehousing and Trusteeship
- Training and Workshops
- Strategy for CSR



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International Legal Alliance (ILA)

Quite often one comes across Clients with cross border and multinational dispute areas requiring legal advice and at such times there is always a constant need to access colleagues around the world who specialized such areas of Law. The concept and idea of the International Legal Alliance (ILA) germinated after much deliberation which led to the conclusion that there is a serious need of lawyers specializing in various sectors of law globally.

ILA is a legal alliance founded in Mumbai, India having a network of independent legal professionals from all over the world - over 150 countries and across all states of India.

This network includes LMJ Law Practice, which has also made a significant contribution to this Paper.

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Credits:

- The images of paintings by Sidharth in front / back cover and in Figure 3, are reproduced with his permission
- Image of "The Thinker" (used in Figure 3) is a bronze sculpture by Auguste Rodin, in the Musée Rodin in Paris
- Pranjulaa Singh for assisting with research and contributing to discussions

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