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The Legal Recognition Of Yoga Under Intellectual Property Laws

“Yoga allows you to find a new kind of freedom that you may not have known even existed.”

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Introduction:

Yoga is a spiritual discipline based ancient practice to enhance wellbeing harmony between mind and body. It is a science as well as art incorporates Asanas merged with breathing exercises, meditation for physical and mental health. The word ‘Yoga’ is derived from Sanskrit term ‘Yuj’ ,means ‘to unite’ or ‘to join’ or ‘to yoke’. As an inner science of man in realizing union and achieve mastery over their destiny, originated in the Indus Saraswati Valley civilization before 2700 BC and at present stands as an international practice, Indian sage Patanjali compiled the Yoga Sutras recognized as the earliest source of Yoga Asanas. Bikram Choudary and Baba Ramdev like many other spread our traditional practice Yoga over the world as appreciable. But the commercial existence always tries to exploit and showcased it as their original for fame and funds by using intellectual property laws i.e., whether Yoga poses be copyrightable or not.

Copyright ability of Yoga

Yoga is not an idea but it’s a pose (Asana) or sequence is akin to an “idea” or a fact. An idea or a fact cannot copyrightable. The copyright ability of Yoga Asanas are in two aspects i.e., copyright for new asana and second for new version /sequence of Yoga Asanas.

According to the Copyright Act of 1957 and in R.G. Anand v. Deluxe Films (1978) and many judicial opinion for copyright protection in India, the work must fulfill two essential requirements:

- Originality of subject matter: Copyright insists in original literary work, dramatic, musical and artistic works and cinematographic films and sound recordings.
- Fixation: The work must be fixed in a tangible medium. No copyright subsists in an idea, subject matter, theme, narrative, etc.

Under Section 2(h) of the Act, Yoga Asanas may considered as ‘dramatic work’ which defines as “any piece of recitation, choreographic work or entertainment in a dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematographic film”. But as per the sources yoga is originated in India about 5000 years ago and transmitted by the legendary Saptrishis or "seven sages" as science of Yoga in sacred scripts and oral transmission with the secrecy of its teachings.

But in 2014 the Delhi High court invalidated the contention of Yoga Asanas falling under the category of 'dramatic work' in *Institute for Inner Studies & Ors. v. Charlotte Anderson & Ors.* In this case, a company that carries on the business of teaching Pranic Healing and Esoteric Sciences and filed a petition against defendants for violating the licensing agreements signed between them regarding by conducting Pranic Healing courses, issuing certificates, and selling materials about Pranic Healing without the authorisation of the Plaintiffs. Plaintiff claimed their intellectual property rights in the Pranic Healing Techniques. Defendant contended that, Pranic Healing is a process or method is pre-existing in the public domain for time immemorial as "public knowledge", which cannot be protectable under the Act.¹ According to the Indian jurisprudence in the matter of types of Yoga is merely an idea, which, if copyrighted, will prevent everyone from practicing Yoga. The Copyright Office (Library of Congress, USA) held that Yoga poses and routine exercises are not protected as a compilation under the US copyright law.

In 2012, *Bikram's Yoga Coll. of India, L.P. v. Evolution Yoga, LLC* case once again the nexus between yoga and intellectual property was widely discussed. The plaintiff is well known as the founder Bikram Yoga, claimed copyright protection for sequence of 26 yaga poses and breathing exercises in 104degree Fahrenheit which was unique and original work. The US Court of Appeals for the 9th Circuit in California denied such a protection because sequences are not a copyrightable subject matter because it was an idea, process, or system devised to improve health. It wasn't the expression of an idea.²

So far as the Indian and American jurisprudence held that Yoga is an idea and that no Yoga poses (Asanas) is protected under the Copyright law. If an individual newly invented Yoga Asana is copyrightable or not is still remain as a question due to absence such claim. Even if any such a case arises, due to the doctrine of merger an Asana being denied copyright protection. In the doctrine of idea-expression dichotomy the expression of ideas is copyrightable, not the ideas themselves. If the expression of an idea is merged with the idea itself, then such an expression cannot copyrightable. It can only happen when there are limited ways to express an idea. So, there is a limited possibility of individual Asanas getting copyright protection even in future. However, the sequence of Yoga cannot be copyrighted, if it is expressed in form of literary, photographic or video and etc. qualifies for copyright protection.

Yoga and Patents

Yoga is our well-known and ancient traditional practice should not be insulted by the idea of patenting. The uniqueness, innovative, and profitableness are the specific conditions and prerequisites for anything to be patented. If anyone tries to patent a Yoga Asana, they would have to meet all the above requirements. Many ancient sacred literary works proved that, Yoga asana is not being unique or innovative because it has existed since ancient times. The Council of Scientific and Industrial Research (CSIR) has recorded most of the yoga asanas in the Traditional Knowledge Digital Library, therefore in the pre-grant stage itself oppose anyone who would try to patent a yoga asana. Everyone knows yoga and who mastered in yoga can teach yoga so it would be impossible for it to be unique and innovative and therefore would rarely be profitable. It is highly impossible for anyone to be a brand new asana or a brand new way to practice an asana. This is because of the antiquity of yoga since before the Indus Valley Civilization and every possible yoga asana have already been discovered of. India is protecting yoga as a traditional knowledge and making sure that it is not being exploited for monetary gains.

However, the material, equipment or accessories for practicing Yoga can be patented. Yoga clothes, mats, Yoga blocks and such other yoga related accessories can be patented.

¹ <https://indiankanon.org/doc/6236790/>

² <https://www.copperpodip.com/post/ip-protection-for-yoga>

Trademark of Yoga

A trademark is generally a name or a logo or a sign used to distinguish the goods or services of one enterprise from those of other enterprises and businesses. Institute for Inner Studies & Ors. v. Charlotte Anderson & Ors case, plaintiff claimed trademark for the term “Pranic Healing” because of their long standing use of it. But the defendant opposed that by arguing the term “Pranic Healing” is a public right and term generic nature. Court dismisses the petition by considering the argument that the term “Pranic healing” wasn’t the property of the plaintiff and texts dating back evidenced the existence of pranic healing. The term was unable to meet the distinctiveness as laid down in section 9 of the Trademarks Act which says that Trademarks that only describe the kind, quality, quantity, and geographical origin of the goods or services cannot be registered and it is a generic term. Further held that knowingly applied to trademark a generic term that had no distinctiveness, amount to fraud upon the register. The generic terms like yoga, pranayama, pranic healing and such other has no distinctiveness and they are deep rooted in our ancient traditions can’t be trademark for any purpose.

Is the yoga is Geographical indicator(GI)?

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. Due to the place of origin the product got qualities, characteristics or reputation because the qualities depend on the geographical place of production and it is clear that the product and its original place of production must has link.

The scope of GI systems only meant for goods or products as well as the national and regional, international treaties. None of these regimes has ever understood the terms 'goods' or 'products' to include what may be considered an 'exercise' or an 'activity,' such as Yoga. Usually meals, agricultural products, traditional art and handicrafts have been granted GI protection not ever been offered to any exercise like yoga. Yoga does not meet the criteria that qualities be mostly related to the area of origin. Of course the India is the root cause of yoga; it is famed for its healing benefits. So, there is just a remote chance that Yoga will be given a GI.

Under the GI Act, registered proprietors cannot allow "authorised users" to make items outside of the geographical area represented by the indicator. So, requiring authorisation for practising Yoga outside of India is a legal impossibility because separating the subject of GI from the geographical place strikes at the very heart of GI jurisprudence.

Conclusion

The Traditional Knowledge Digital Library (TKDL) include the Yoga as traditional knowledge will eventually benefit India from the exploitation of commercial corporations seeking to profit off India's cultural history .It’s an asset of human being need to be the prevalence of bio piracy, an organizational strategy is required to protect community interests. Under a non-disclosure pact, TKDL is shared with foreign counterparts such as the European Patent Office, the United States Trademark and Patent Office, and other international agencies, preventing misuse and undue advantage of Yoga.