FOUNDER GOVERNANCE • STATUTORY TITLE HYGIENE

The Technical Co-Founder Exit: Chain-of-Title Hygiene & Reverse-Vesting Pitfalls

Navigating Section 17(c) vs. Section 19 Copyright Assignments, Section 68 Patent Formalisms, and Seed/Series A Due Diligence

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Executive Summary & Takeaway: Executive Strategy: The most pervasive fatal defect in Indian venture-backed startups is defective intellectual property chain-of-title. Founders routinely assume that paying a software engineer, issuing sweat equity, or executing an equity repurchase clause in a Shareholders' Agreement (SHA) automatically vests software repositories, AI architectures, and inventions in the company. Under Section 19 of the Copyright Act and Section 68 of the Patents Act, this assumption is legally invalid. Without executed bilateral statutory assignments, title remains severed in individual developers, creating existential hold-up leverage during institutional fundraising.

1. The 'Work for Hire' Fallacy Under Indian Law

Section 17(c) of the Copyright Act, 1957 recognizes employer first-ownership strictly for salaried employees acting under a 'contract of service.' This statutory presumption does NOT extend to independent contractors, retainers, agencies, or non-salaried co-founders acting under a 'contract for services.' Even when an engineer is a major equity shareholder, the company does not acquire proprietary title by operation of law.

2. Mandatory Assignment Formalities Under Section 19

Under Section 19 of the Copyright Act, valid copyright transfer requires strict statutory compliance:

- **Writing & Bilateral Signature (Sec. 19(1)):** Oral understandings, Slack logs, and board resolutions are void as assignments.
- **Identification of Work & Rights (Sec. 19(2)):** Must explicitly define the codebase, repositories, and exact rights conveyed.
- **The 1-Year Lapse Trap (Sec. 19(4)):** Unless expressly excluded, assigned rights lapse and revert to the author if unexercised within 1 year.
- **Territorial Limitation (Sec. 19(6)):** Omitting global territorial language restricts ownership strictly to India.

3. Hypothetical Case Study: NeuroDraft AI Pvt. Ltd. (Gurugram)

DLF Phase 3 startup NeuroDraft AI was founded by three engineers. In month 14, CTO Rohan Verma exited over equity allocation. The company repurchased his unvested shares, but never executed a formal Section 19 Assignment Deed for his backend LLM wrapper. During a $5M Series A audit, VC legal counsel discovered Rohan retained statutory ownership, stalling the round until a clean-up deed was negotiated. This illustrates the acute danger of treating equity vesting as an IP assignment.

4. 4-Step IP Remediation Protocol for Pre-Seed/Series A Startups

1. **Audit Git Commit Logs:** Map contributor emails against fully executed bilateral assignment deeds.
2. **Execute Comprehensive IP Assignment Deeds:** Ensure explicit negation of Section 19(4) lapse and worldwide coverage under 19(6).
3. **Comply with Section 68 Patents Act:** Ensure written patent assignments are registered on IPO Form 1 / Form 16.
4. **Institutionalize Developer Governance:** Require all contractors to sign assignment deeds before receiving repo access.

About the Author & Chambers

Gaurav Arora is an Advocate (Bar Council of Delhi) and Registered Indian Patent Agent (INPA-1900), serving as Founder and Lead Arguing Counsel at Arora IP Counsel (Chambers of Gaurav Arora) in New Delhi / NCR. He holds an LL.M. in Intellectual Property Law from Benjamin N. Cardozo School of Law, New York (Dean’s Merit Scholar), a B.E. in Mechanical Engineering from Punjab Engineering College (PEC Chandigarh), an LL.B. from GLC Mumbai, and passed the USPTO Patent Bar Examination (2016). He is the author of the statutory treatise "Patently Obvious COMMA: Correct Interpretation of the Patents Act, 1970" (2023), deposited in the permanent collection of the WIPO Knowledge Center in Geneva.

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