

Lec: 1 (24/10/25) Ch-18 COPYRIGHT (10-20M weightage)

Lec: 2 (25/10/25)

Lec: 3 (27/10/25)

Lec: 4 (28/10/25) **COPYRIGHT**

A copyright is a property right which gives exclusive rights to the author over their literary, dramatic, musical, artistic, sound recording, films.

The copyright law further included computers software within its periphery.

These are economic rights given to the author or owner so that they can:

a) reproduce the work

b) issue copies

c) perform it in public

d) make cinematographic films or sound recording

e) make adaptation / translation of the work

"Adaptation" means:

(i) In connection to dramatic work -

converting into non-dramatic work.

(ii) In case of literary or artistic work -

converting into dramatic work or converting into some story form mainly by way of pictures.

(iii) In case of musical ^{work} - any arrangement or transcription of work.

"Author" means:-

(i) In case of literary or dramatic work - author of the work.

(ii) In case of musical work - the composer.

- (iii) In case of artistic work other than photograph - the artist
- (iv) In case of photograph - the person taking photograph
- (v) In case of cinematograph or sound recording - the author becomes 'producer'.
- (vi) In case of work which is computer generated - the person who created the work.

RIGHTS:- ~~Imp~~

There are different rights available of different types of copyrights in case of a literary dramatic or Musical work:

- to reproduce the work and storing it any medium by electronic means.
- to perform the work in public.
- to make translation of the work.
- to make any adaptation of the work
- to make cinematograph film
- to issue copies of work to the public.

In case of computer programme:

- All of the above mention rights
- further to sell it or give it on commercial rent.

⊕ copyright in case of Artistic work:-

- converting it into 3D from 2D
- converting it into 2D from 3D
- storing it any medium by electronic means.

copyright in case of cinematographic film

- (a) taking out photograph of any part of the film
- (b) storing it any medium by electronic means,
- (c) to communicate the film to the public.

copyright in case of sound recording:

- (a) storing it any medium by sound recording,
- (b) to communicate
- (c) to make any other sound recording and further storing it any medium.

Note:- Commercial rental does not ~~to~~ include:

lending for non-profit purposes by non-profit library or non-profit educational institution.

Case law

Gramophone Co. of India Ltd Vs. Super Cassette In. Ltd.

- (i) This is a landmark case on rights relating to various copyrights, in this case the defendant using its rights of sound recording produce a cinematograph film which was challenged by the plaintiff who has literary, dramatic, musical works rights.
- (ii) The court considered this as an act of infringement as sound recording rights does not includes cinematographic rights.
- (iii) The rights of cinematographic film is covered under literary, dramatic and musical works.

TERM OF COPYRIGHT ← IMP

- (i) In case of Literary | dramatic | musical | Artistic work — Lifetime of author and 60 yrs after the death of the author, beginning from the next calendar yr following the yr in which author dies (if joint authors then death of last author)
- (ii) In case of Anonymous | Pseudonymous work — 60 yrs from where the work is published (60 yrs here starts from the next calendar yr following the yr. in which the work was published).

Note:- If before expiry of the copyright the author turns up and same as above.

(iii) In case of posthumous work — the work gets protection of 60 yrs beginning from the ^{next} calendar year following the yr in which the work was published. (If an adaptation of same was issued prior then 60 yrs was counted from adaptation).

(iv) In case of cinematographic films — 60 yrs from the beginning of calendar year next following the yr. on which film is published.

(v) In case of Sound recording — 60 yrs from the beginning of calendar yr next following the yr on which the sound recording is published.

(vi) In case of Govt. work — 60 yrs from beginning of calendar yr next following the yr. on which work is published.

(vii) In case of International organizations works — 60 yrs from beginning of calendar yr next following the yr on which the work is published.

- (i) Filing form of 4 with copyright registrar along with fees in the form of DD the fees varies from 500 to 5000 where 5000 is cinematographic film and 500 is literary, dramatic, musical work. once registrar checks it if an application is complete he issue a diary no. which is an acknowledgement.
- (ii) Now it is mandatory waiting period 30 days because this is kept open for public if they have any objection.
- (iii) Ends 30 days they might have 2 possibilities either there would be an objection or there would be not.
- (iv) If there is an objection the registrar send notice to both parties, keep hearing based on this decides to proceed forward with app. or not.
- (v) If there is registrar decides move forward with an application it goes next stage of scrutiny in this examiner scrutinizes the copy of copyright.
- (vi) The examiner issue a report of scrutiny which either finds discrepancy or does not find, if discrepancy is found a letter for the same is issued to applicant, considered if required a hearing is called.
- (vii) After all discrepancy is removed, registrar approves registration.
- (viii) If the objection is not waived or discrepancy report is not waived the applicant is liable to ~~rejected~~ rejected the extract the same is sent to applicant along with valuable reason.

INFRINGEMENT OF COPYRIGHT

- (i) Infringement refers to unauthorized use of someone else's copyright work.
- (ii) A copyright is considered infringed if any person without the license or permission of copyright owners does any of the following:
- (a) Any act the right to do of which is exclusively confirmed upon the owners of copyrights.
 - (b) permits any place for communicating the work to the public in order to earn ~~pub~~ profits.

(iii) The following acts are considered infringements:

- (a) importing any copies infringing import into India
- (b) exhibiting it to the public for the purpose of trade.
- (c) distributing the work to the general public to such an extent that it harms the interest of copyright owners.
- (d) makes the same sale on line.

(iv) The reproduction of any literary / dramatic / musical work in the form of cinematographic film shall be considered as an infringing copy.

(v) ~~(f)~~ Infringing copy means:

- (a) in case of literary / dramatic / musical work, a reproduction of the same otherwise than in cinematographic film.
- (b) in case of cinematographic film a copy of the same.
- (c) in relation to sound recording, making any sound recording based on some sound recording.

ASSIGNMENT OF COPYRIGHT

- (i) The owner of copyright can transfer any right in any existing or future work, either completely or partially and for entire duration or part of it.
- (ii) However Assignment in case of future work can only take effect when the work come into existence.
- (iii) No Assignment can cover the new way of work that didn't exist when the assignment was made, unless the same was mentioned in the contract of assignment.
- (iv) The author shall not waived his right to receive royalty even after assignment and in this case they share the royalty equally.
- (v) The author can only assign this right to his legal heir or a copyright society, for the purpose of collection (any other assignment shall be void)
- Case (vi) In Video Master v/s Nishu production in this the issue where assignment of video rights would include the right of satellite broadcast. The court agreed that there were several ways of communicating but the film owner owned copyright ~~and~~ in each format and has right to assign different people. Hence video right would not include satellite broadcasting ~~and~~ rights which was a separate entitlement rights of the owner of copyright.

MODE OF ASSIGNMENT

- (i) An assignment of copyright in any work in writing signed by the assigner or by duly authorised agent. He needs to identify the work and also specified the rights which are to be assign,
- (ii) as well as the duration, the amt of royalty, territorial extent of such assignment.
- (iii) where the assignee does not assign the rights assign to him within a period of 1 yr from the date of assignment, then the assignment shall be deemed to have lapsed.
- (iv) Any assignment which is contrary to the term and conditions to the rights already assigned to the society shall be void.

Dispute with respect to assignment of copyright

- (i) If an assignee fails to exercise the rights assign to him and same is not attributable upon the assigner then the commercial court may on receipt of a complaint if after enquiry feel necessary may revoke such assignment.
- (ii) If there is any other dispute then the commercial court may upon the court aggrieved party pass any order including recovery of royalty.
- (iii) The commercial court will not ^{order} revocation of order ~~assignment~~ unless it is satisfied that the terms of assignment are harsh upon the assigner.
- (iv) Every such application must be dealt in by the commercial court in a manner to pass the final order within a period of 6 months.

LICENSES

i) The author of copyright can grant license with respect to his work both in present or future work, however any licenses in future work can only be given once the work come into existence.

ii) Even if the person to whom license is given in a future work dies before the work come into existence shall be entitled his legal representatives for the licenses.

Compulsory license → Imp

i) If any work which has been ~~if at any~~ published and a complaint is made in commercial court that the owner of the copyright has:

(a) refuge to republish the work or has refuge to allow the performance of the work in public because of which the work is withheld from public.

(b) Refuge to allow communication to the public by broadcast.

ii) The commercial court ~~has~~ after giving ORBH and after holding enquiry if it finds that the grounds for refusal are not reasonable that he may direct the registrar of copyright ~~to~~ to grant the complainant and license to republish the work or communicate the work by broadcast, subject to the payment, to owner of copyright such compensation as may be determined by the commercial court.

compulsory license in unpublished / published work

- i) In case of any unpublished work or any published work withheld from the public and the author is dead / unknown or cannot be found then any person may apply to the commercial court for a license to publish the work to public.
- ii) Before making such an application the applicant has to publish his ~~newspaper~~ proposal in a newspaper and where the application is for the public of a translation that one copy in a vernacular / newspaper also.
- iii) The commercial court may direct the registrar of copyright to grant a license to publish the work or translation sub. to the payment of royalty as per the direction of commercial court.
- iv) The royalty amt. is deposited with the registrar of copyright who transfers the same to the public of India to enable the owner of copyright or his legal representative to claim royalty at any time.

Statutory licenses for broadcasting of LMS

communication of

- i) Any broadcasting organization desires, the any work by way of broadcast or by way of literary, musical work and sound recording which has already been published shall give a prior notice of its intention to broadcast the work and shall pay to the owners royalty, at the rate fixed by commercial court.
- ii) Different rates of royalties can be fixed for different kinds of broadcasting rights and the commercial court may require the broadcasting

organization to pay an advances to the owners of rights.

ii) No alteration to any literary, musical work shall be allowed unless its for shortening of the work for the convenience of broadcast.

• Termination of licenses:-

i) If after granting the licenses the owner of copyright or any other person authorized by him publishes the translation of the work in a same language and which is substantially the same and as well as the price is also similar then the licenses so granted shall be terminated.

ii) However, such termination shall take effect only after the expiry of period of 3 months.

• Registration of copyright society:-

i) It is a registered collective administrative society formed by the authors ~~and copyright~~ or owners of the copyright work.

ii) This society can issue or grant licenses in respect of the work for which it is authorized.

iii) Further it can collect royalty on the behalf of the authors and distributed equally.

• REGISTRATION

Any person or asso. of person willing to start a business of issuing licenses in copywritten work can form copyright society to do the same.

ii) However, the owner of the copyright in his individual capacity have the right to grant license in respect of his own work providing it is consistent with the rights of copyright society.

iii) In case of granting license in respect of cinematographic films or sound recording the same can be done through copyright society.

iv) The central govt. after taking into the account the following factors:-

(a) In the interest of the owners

(b) if it is in the convenience of the public or most likely to seek licenses and ability of the competence of the applicant.

(c) the registration granted to a copyright society shall be valid for a period of 5 yrs and thereafter it may be renewed after time to time

(d) the central govt also has power to cancel the registration if found ~~it violation~~ an allegation/violation.

Administration of rights of owner by Copyright Society

i) The copyright society can accept exclusive rights to issue license and collect fees on the copyright work.

ii) The authorization can also be withdrawn if the management is done ~~with~~ in a detrimental manner.

iii) The copyright society can enter into an agreement of foreign society to interest the work to the foreign society and can also accept any foreign work which is to be dealt in India.

iv) The society is empowered to •

(a) issue licenses

(b) collect fees

(c) distribute such fees after deducting its own expenses.

v) The copyright society is subject to the collective control of the authors and owners and there shall be no discrimination b/w them with regards to distribution of royalties.

Broadcast reproduction Right → ~~100%~~

i) Every broadcasting organ. shall have a special right known as 'broadcast reproduction right'.

ii) This rights shall subsists until 25 yrs from the beginning of the yr on which broadcast is made.

iii) During the continuance of the rights they have the following rights:

(a) Re-broadcast the broadcast.

(b) causes the broadcast to be heard or seen by the public on payment of any charges.

(c) makes any sound recording of the broadcast

(d) makes any reproduction of such sound recording or visual recording.

(e) it can sell or give it rental of such sound recording.

Performer's Right

i) If any performers engages in any performance then he shall have special right known as performer's rights which shall subsist until 50 yrs.

ii) Exclusive rights of performer:

(a) ~~If any performer engaged then he shall have performer's rights in such performance which shall ~~shall~~ subsist~~

(b) issue copy to the public of the same

(a) to make sound recording including its reproductions and selling or giving it on commercial vent.

iii) Even if the performer has consented for incorporation of his performance in a cinematographic film he shall have the right to receive royalty for the work.

MORAL RIGHT OF PERFORMER

- (i) The performer of any performance shall have performance right even after assignment whether partially or wholly rights.
- (ii) The author has the right to claim authorship and restrain any person from modifying the said work if that pre-judicially affects his own or reputation.
- (iii) These moral rights are available to the authors even after the economic rights are assigned.

COPYRIGHT PROTECTION TO FOREIGN WORKS

- (i) The copyright applies to those work which are first published in India irrespective of the nationality of the author.
- (ii) The Govt. of India has the power to extend these benefits to even those works which are first published abroad.
- (iii) However, the benefits of foreign work will not extend beyond what is available to them in their home country on that reciprocal basis i.e. the foreign country grants similar protection to ^{Indian} work.

Statutory exceptions - not to be infringement of ©.

Certain exceptions to infringement have been stipulated under the Act which are as follows:-

- (i) A fair dealing with any work (not being a computer programme) for the purpose of:
 - (a) private use including research, criticism or review of any other work, reporting of any current events.
- (ii) The making of any copies of any computer programmes by the lawful possessor only for that purpose for which it was supplied, or for the purpose of making back-up copies to protect against any loss or damage.
- (iii) For the purpose of observation or test or functioning of any computer programme, idea, or its principle.
- (iv) Making of a copies from a legally obtained copies for non-commercial purposes.
- (v) The incidental storage of any work purely in the process of electronic transmission to the public.

NOTE:- provided if written of owner of copyright received then the person responsible for storage shall refrain from facilitating access for a period of 21 days or until he receives the order of the court and ~~to~~ if no such order is receive within 21 days then it can continue providing access.

- (vi) The reproduction of any work for judicial proceedings.
- (vii) The reproduction of any work prepared by legislature.
- (viii) Recitation in public of any ~~reasonable~~ reasonable extracts from a published literary or dramatic work.
- (ix) The reproduction of any work by a teacher or as a part of questions to be answered or as an answer to such questions.
- (x) performance by any educational institution whether the audience is limited to the staff and students or their parents and guardians.
- (xi) The performance of any LDM work by any amateur club if the performance is given to a non-paying audience or for any religious instruction.
- (xii) The storing of any work by electronic means by non-commercial public library if the library already possess of non-digital copy of the work.
- (xiii) The making of not more than 3 copies by a non-commercial public library for the use of the library if such book is not available for sale in India.
- (xiv) The reproduction for the purpose of research or private study.
- (xv) The publication of translation of any act or legislature provided no such translation in that language has previously been issued and if it has been issued but the same is not available for the sale to the public.
- (xvi) publishing of any painting, drawing, photograph of any architecture work or any other work which is permanently situated on a public place.
- (xvii) The performance of any LDM in any marriage ~~pro~~ procession or any social festivities.

(xviii) The making of any work to facilitate any person with disabilities to have access to such work for private, personal use, educational purposes provided the same was not available as well as ~~not for~~ the same is done not for profit basis.

Remedies against infringement of copyright

(a) Civil remedies:

Injunction, damages, destruction of infringing copies and damages for conversion

(b) Criminal remedies:

Imprisonment, fines, infringing or delivery copies.

(c) Border Enforcement:

Provides for prohibition of import and destruction any imported goods that infringe any copyright

Offences & Penalties

If any person knowingly the © on any work then min. imprisonment of 6 months but which may extend upto 3 years and with fine of not less than 50 thousand but may extend upto 2 lakh.

Note:- If the infringement was not done for trade or business then the sentences may be less than 6 months or fine less than 50 thousand (All acts are non-bailable in nature).