

## **B.A.LLB. VIII SEMESTER**

### **Subject: Intellectual Property Law**

**Code: BL - 803**

#### **Copyright Law: Meaning and Protectable Subject Matter**

Copyright is a unique kind of Intellectual Property. Copyright is a right given by Copyright Act to the author or original work. It is a bundle of rights including right of reproduction and communication to the public, adaptation and translation of the work.

According to Sec. 2 (d) of Copyright Act, 1957

Author Means

- (i) in relation to a literary or dramatic work, the author of the work;
- (ii) in relation to a musical work, the composer;
- (iii) in relation to an artistic work other than a photograph, the artist;
- (iv) in relation to a photograph, the person taking the photograph;
- (v) in relation to a cinematograph film or sound recording, the producer;
- (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created.

**Sec. 14. Meaning of Copyright-** For the purposes of this Act, "Copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely :-

**(a) In the case of a literary, dramatic or musical work not being a computer programme,-**

- (i) To reproduce the work in any material form including the storing of it in any medium by electronic means,
- (ii) To issue copies of the work to the public not being copies already in circulation,
- (iii) To perform the work in public, or communicate it to the public,
- (iv) To make any cinematograph film or sound recording in respect of the work,
- (v) To make any translation of the work
- (vi) To make any adaptation of the work

- (i) To do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub clauses (I) to (vi)
- (b) In the case of a computer programme-
  - (c) To do any of the acts specified in clause (a)
  - (i) To sell or give on hire, or offer for sale or hire, any copy of the computer programme, regardless of whether such copy has been sold or given on hire on earlier occasions
  - (d) In the case of an artistic work,-
    - (e) To reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work,
    - (i) To issue copies of the work to the public not being copies already in circulation
    - (ii) To issue copies of the work to the public not being copies already in circulation
    - (ii) To include the work in any cinematograph film,
    - (iii) To make any adaptation of the work
    - (iv) To do in relation to an adaptation of the work any of the acts specified in relation to the work in sub clauses (i) to (iv)
  - (f) In the case of a cinematograph film-
    - (g) To make a copy of the film, including a photograph of any image forming part thereof.
    - (i) To sell or give on hire, or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions.
    - (ii) To communicate the film to the public
  - (h) In the case of a sound recording-
    - (i) To make any other sound recording embodying it,
    - (ii) To sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions,
    - (iii) To communicate the sound recording to the public

Explanation - For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.

### **Subject Matter of Copyright**

#### **Sec. 13. Works in which Copyright subsists—**

(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,—

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) sound recordings

Computer programme is also included in the Literary work.

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,—

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;

(ii) in the case of an unpublished work other than work of architecture, the author is at the date of the making of the work a citizen of India or domiciled in India; and work of architecture], the author is at the date of the making of the work a citizen of India or domiciled in India; and"

(iii) in the case of work of architecture, the work is located in India. work of architecture, the work is located in India." Explanation.—In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist—

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any sound recording made in respect of a literary, dramatic or musical work, if in making the sound recording, copyright in such work has been infringed. sound recording made in respect of a literary, dramatic or musical work, if in making the sound recording, copyright in such work has been infringed."

(4) The copyright in a cinematograph film or a sound recording shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or, as the case may be, the sound recording is made.

(5) In the case of work of architecture, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

**Imp. Case Laws**

University of London press Ltd vs. University Tutorial Press (1916)

Eastern Book Company vs. Navin J desai (2001)

R G anand vs. Deluxe Films. (1978)

Godrej Soaps Pvt Ltd. vs. dora Cosmetics Co. (2001)

Raj Rewal vs. Union of India

( Date of decision 28 May 2019,Delhi High Court)

Yash Raj Films vs. Sri Sai Ganesh Productions

( Date of decision 8 july 2019, Delhi High Court)

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