

BOOK REVIEW

Law of Copyright by Jatindra Kumar Das, Associate Professor, Department of Law, University of Calcutta, Publisher: PHI Learning Private Limited, Rimjhim House, 111, Patparganj Industrial Estate, Delhi - 110092.

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The Concise Law Dictionary defines 'Copyright' as 'the exclusive right given by law for a certain term of years to an author, composer etc. (Or his assignee or heirs) to print, publish and sell copies of his original work or translation thereof.'¹ The Webster's New World College Dictionary defines 'Copyright' as 'the exclusive right to the publication, production, or sale of the rights to a literary, dramatic, musical, or artistic work, or to the use of a commercial print or label, granted by law for a specified period of time to an author, composer, artist, distributor, etc.'² The Longman Dictionary of Contemporary English defines 'Copyright' as 'the right in law to be the only producer or seller of a book, play, film, or record for a fixed period of time.'³

The law of copyright protects the expressed ideas of an author's creativity by recognising the exclusive right in his creation and enforces such right through effective mechanism⁴. Thus, ideas themselves are not copyrightable, but the author's particular "expression" of an idea is protectable⁵. The creativity protected by the copyright law is creativity in the choice and arrangement of words, musical notes, colours, shapes, etc. Copyright law protects the owner of rights in literary and artistic works against those who copy or otherwise take and use the form in which the original work is expressed by the author. The related rights in relation to copyright includes 'neighbouring

¹ P. Ramanatha Aiyar (ed.), *Concise Law Dictionary* (Wadhwa and Company, Nagpur, 2006) at p. 263

² Michael Agnes (Editor In Chief), *Webster's New World College Dictionary* (IDG Books India (P) Ltd., New Delhi, 2000) at p. 322

³ Paul Procter (original Editor In Chief), *Longman Dictionary of Contemporary English* (Orient Longman Ltd., Madras(now Chennai), 1995) at p. 228

⁴ Book under review at p. 10

⁵ *Ibid.*

rights' i.e. rights neighbouring on copyright (performances of performing artists, phonograms and broadcasts). This is a well known fact that the laws on copyright have gained enormous importance in today's global and materialistic world. The current multiplicity of conventions and their interaction with Indian laws and the technicalities ridden copyright aspects are enough to perplex any reader, and a well researched book on the subject would be of much use to those who want to know the basic concept and laws on the subject.

At the national level the idea of law of copyright can be traced back to a time prior to the advent of printing technology.⁶ The Roman jurist Gaius probably in second century held that an artist has superior right over a painting upon tabula which he himself painted⁷. The concept given by Gaius was applied in *Finnian v. Columba*⁸, the first record of copyright case of sometime around A.D. 560. The English Statute of Anne of 1709 is the first copyright statute of the world. United States of America in 1790 passed a series of copyright statutes. Law of copyright in India has emerged out of English common law.

Dr. Jatindra Kumar Das, the author of the book under review, specialises in intellectual property law of which copyright law is a part, a fact that becomes apparent as one reads the book which is a detailed analysis of laws relating to copyright. The author has successfully covered the entire gamut of topics under the law of copyright.

The preface to the book very articulately introduces the reader to the subject of copyright along with the book itself. It explains the development of the law of copyright in a concise and precise manner at the international level and it's adaptation in India. The author has emphasised in the first line of the preface about the two conflicting interests⁹, one being of the private creator and the other of the public where law of copyright would definitely help in the development of a symbiotic relationship between the two.

The book¹⁰ is grouped under several sub-heads set forth chapter-wise from chapter one to ten to make readers understand the intrinsic and fundamental nature of the subject in a convenient way. In Chapter 1 the author gives an insight into the theory of intellectual property and brings out the concept of copyright from it to delve deep into the nature, meaning and general principles dealing with the law of copyright. Chapter 2 deals with the origin and

⁶ Book under review at p. 71

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Book under review at p. xiii

¹⁰ Book under review

development of the law of copyright internationally and its adaptability in India. In this chapter international conventions on copyright has been discussed in detail and simultaneously the Indian perspective has also been given due consideration so that the reader is able to correlate the law of copyright both internationally and at the Indian level. Chapter 3 discusses the genesis of law of copyright in India. A valuable reference has also been made to law of copyright in England and America.

The author in chapter 4 has dealt with the most debatable point in the subject of copyright i.e. what are the works in which copyright subsists? An elaborate analysis of section 13 of Copyright Act, 1957 has been done in the chapter. The author has made sincere efforts to explain the concept of originality as understood in England, America and India.

Chapter 5 is devoted to the meaning of work, publication of work, meaning of author, legal status of work of joint authorship, ownership of copyright, first owner of copyright, meaning of contract of service and contract for service, transfer of ownership of copyright such as assignment, relinquishment and licensing of copyright and various recognised rights of copyright owner. The author has explored all these concepts very deeply and meticulously so that an otherwise difficult area to comprehend becomes easy for the reader to grasp.

In Chapter 6 the author gives an exhaustive analysis of the term of copyright, licensing of copyright, registration of copyright and international copyright under which certain works of foreign authors are accorded same protection in India to which the Indian citizens are entitled. The statutory provisions have been discussed in such manner that the reader gets to understand the law from a practical view point.

Chapter 7 of the book deals with relatively a new field of copyright law i.e. neighbouring rights. These rights deal with various kinds of performers like actors, dancers, musicians, jugglers, acrobats and so on. Such rights were previously not recognised on the ground that they lacked the intellectual touch that lay at the basis of the concept of copyright. Rome Convention was the place which first responded to the performers in extending copyright protection to physical manifestations. The author has passionately made an in-depth study to discuss the background, development and enhancement of the law to protect the performer's rights so that the reader comprehends the importance of the issue and understands it.

The author in Chapter 8 has very extensively and elaborately discussed about the protection of copyright in internet which once again is a new and

challenging field under the law of copyright. The author in the chapter has discussed the issue very systematically by taking into consideration both the international and Indian scenario. The author has even deliberated upon the jurisdictional concept in the cases related to internet. The chapter has also reference to the law in America which helps the reader to make a comparative study of the topic for better understanding.

Chapter 9 in the book deals with infringement of copyright and defences of copyright liability. Copyright provides a bundle of rights but these rights are not an absolute right of the owner. The author delves in this chapter that what is infringement? When copyright is deemed to be infringed? The author has beautifully explained the concept of fair dealing in the chapter. The provisions of the Copyright Act, 1957 related to the topic have been discussed along with the concept so that the reader is able to comprehend even from the statutory point of view and can form a clear understanding about the subject.

Chapter 10 of the book deals with enforcement of copyright. The author here has very elaborately explored the arena of enforcement of copyright in India. Detailed analysis of the provisions of TRIPS in relation to enforcement of copyright along with the Copyright Act, 1957 has been done. The author has also given stress upon civil and criminal remedies in case of copyright infringement. The role of judiciary in giving relief has been amply discussed so that both substantive and procedural law becomes clear to the reader. In this place it is also to be mentioned that even the administrative remedies have also been very well referred to.

The book in its appendix which comes after chapter 10 contains the bare Copyright Act, 1957 which acts as a ready reference to the reader and helps him to glance through the bare sections in case of need and thus gives the sense of completeness to the book on the subject of "Law of Copyright".

In this liberalised world where dissemination of information, knowledge and performances are becoming more free and easy as boundaries among nations are getting less relevant though jurisdictional formalities remaining the same at the time of getting remedies in cases of infringement which in turn leads protection of copyright as difficult and technical making the law of copyright as immensely significant. Thus it is very well understood that law of copyright is essential both in the national and international perspective. Books on this subject have a global relevance. To add more India is the largest democracy with the second largest population of this world and so both the Indian and the international community have special interest in books by eminent authors published from India on international issues. This would be the case with this

book¹¹ as well since the author has done a commendable job by being able to cover the law of copyright comprehensively. All the topics under the subject have been elaborately dealt with to give a complete and clear idea of the subject. Each chapter starts with an abstract to give clear preview of the chapter for better understanding. The book critically analyse a huge number of cases on the law of copyright from English, American and Indian courts. Illustrations and tables have also been used so that the reader is able to grasp in an easy manner. The book incorporates 'Table of Cases', 'Appendix', 'Bibliography' and 'Subject Index' in alphabetical order which help the reader to locate the required references promptly vis-à-vis provisions of statute, international conventions, doctrines, theories etc. The style of writing is very lucid and contemporary. The book would be a valuable addition to any library and would help immensely the members of legal fraternity be them are students of L.L.B., LL.M., Ph.D. scholars or doctorates, practitioners, judges, consultants, solicitors and even to the members of civil society interested in the subject.

The book has been very well written and the author has used his vast knowledge and experience in the book thereby creating a bridge of communication between the reader and himself, with a firm control on the subject and clear presentation of ideas that speaks tons about the book. Keeping in view the amount of information contained in it and its size, the thoroughly updated book is reasonably priced. The publishers have also maintained the quality of paper, print, readable font size and the get up.

Dr. Jatindra Kumar Das is to be congratulated for his valuable contribution to the Intellectual Property Law for the expression of his research and ideas in the form of this book and the book would create a niche for itself in the world of copyright law.

Ayan Kanti Chakraborty¹²

¹¹ Book under review

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