

Copyright Issues in Legal Research and Writing

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As members of legal fraternity judges, lawyers, academicians, researchers and students continuously engage in legal research and writing, the legal researchers and writers play a double role in their academic exercise as both creators and users of copyrighted materials. It means, they have rights and duties with regard to copyright law. The present article analyzes the copyright issues involved in research and examines the ways by which the academic authors should protect themselves from the charges of copyright infringement and plagiarism.

Keywords: Legal research, academic writing, fair dealing, plagiarism, copyright infringement

Research and writing are important in every profession. It is particularly true with legal profession, as members of legal fraternity judges, lawyers, academicians, researchers and students continuously engage in legal research and writing. However, many researchers often ignore the precautions one has to take to produce an original work or to escape the perils of copyright infringement and plagiarism. For that, the researcher needs to be trained in original and creative writing. A creative writing is not a novel writing; it also does not focus on novel thoughts or new ideas. It is all about how the researcher treats the existing literature while creating his own research write up. The legal researchers and writers play a double role in their academic exercise as both creators/owners and users of copyrighted materials. As creators and / or users, they have certain legal rights, duties and responsibilities while making use of other's copyrighted work. As such, they encounter with the copyright law quite often. Hence, it is desirable to gain familiarity with copyright law - as it is relevant for research - in order to exercise their rights as users to the fullest extent without violating the rights of copyright holders. This knowledge is equally important to protect their rights as creators of copyrighted works when they engage in creative and original writing. This is also a human right of the author. Article 27(2) of the Universal Declaration of Human Rights, 1948 and Article 15 (1) (c) of the International Covenant on

Economic, Social and Cultural Rights, 1966 state that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. However, this article will focus primarily on copyright issues rather than the human right aspects.

Copyright system basically revolves around two theories: fairness theory and welfare theory. Fairness theory is author-centric, which promotes the rights of the authors, by giving them exclusive opportunity to profit from their work, whereas welfare theory focuses on the interest of the society. According to the latter, the works created by the authors must be made available to the society for greater public interest. Hence, the authors while having the right to benefit from their work of labour and creativity also have a duty towards the society - for the dissemination of knowledge. A fair balancing of the competing interests of the society and the authors is very much essential for the continuous existence of copyright system which in turn will result in the promotion of arts, science and literature. This balancing is mainly done through the statutory mechanism of 'fair dealing' or 'fair use'. Both the authors and readers, hence, need to understand the scope and ambit of copyright protection and the limitations of authors' rights which mainly arise from the doctrine of fair use. This knowledge is very important in the realm of research and writing. Thus, the present article aims at discussing key elements of copyright law as they pertain to research and writing.

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Legal Research and Writing

The Oxford Advanced Learners Dictionary defines research as a careful study of a subject, especially to discover new facts or information¹. It is a 're'-'search' meaning that search again and again, to confirm a given information or searching further existing knowledge for a given purpose. In simple language, research is a systematized effort to gain new knowledge.² It is intensive search with a view to become certain. In technical terms, research comprises defining and redefining problems, formulating hypothesis or suggested solutions; collecting, organizing and evaluating data; making deductions and reaching conclusions; and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis.²

Coming to legal research, it is research in that branch of knowledge which deals with the principles of law and legal institutions. Legal research is the process of identifying and retrieving information necessary to support legal decision making. It includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation.³ Legal information is scattered in a number of primary and secondary authorities. Legislations, precedents and juristic writings are the main sources of information in legal research. The process and techniques of legal research may slightly vary from society to society depending on its legal systems and institutions. Irrespective of this, legal research generally involves (i) finding primary sources of law or primary authority in a given jurisdiction, (ii) searching secondary authority – books and articles in law reviews, legal dictionaries, legal treatise and legal encyclopaedias for gaining background information about a topic; and (iii) interpreting the law in the light of the purpose of the research. The contents of these sources of law change with the changing requirement of the society and if these changes are not taken into account in interpreting the law the existing law is bound to be doomed.⁴ Sir David Maxwell Fyfe has observed thus:⁵

The law is not to be compared to a venerable antique, to be taken down, dusted, admired and put back on the shelves, rather it is like an old, but still vigorous tree firmly rooted in the history but still putting out new shoots taking new grafts and from time to time dropping dead wood. That process has been going on, is going on now and will continue.

Types of Writing

All research findings are published in the form of writings, as research reports. In general parlance, writing can be of different kinds. There can be general writing, business writing, personal writing and academic writing. This article is concerned with only academic writing. Academic writing can further be classified as: (i) Research writing (assignment, research paper, project, dissertation, thesis etc.); (ii) book writing: text book, reference book etc; (iii) essay writing; (iv) article/journal writing; (v) report/project writing; (vi) review writing including book and article reviews; review of literature/literature survey writing and synthesis paper writing. The distinguishing factors for academic writing are its purpose, audience, tone, and content.

Copyright *vis- a- vis* Legal Writing

As creators of copyrighted material or writers, the members of academic and research community need to be careful while treating others' material as raw material in their writing. No work is made out of vacuum. The academic works are based on previously existing works which serve as building blocks. These works may be subjected to 'copyright' as well. Copyright is a branch of intellectual property which deals with rights and duties of creators and users of works such as original literary, dramatic, musical and artistic works. The purpose of copyright is to reward the creators of original creative works. The copyright system is balanced by protecting the interests of both users and creators of the work. However, it is not a monopoly but copyright system promotes, as stated earlier, the interests of society as a whole and favours the greatest good for the greatest number of people by limiting the rights to a fixed duration. After the expiry of the term of the copyright,⁶ the work falls into public domain. The fairness theory of copyright is based on the premise that the law ought to give authors what they deserve for their creative ingenuity. By copyright system, the hard work of the authors is rewarded and authors are allowed to retain control of the fruits of their labours.

When welfare theory is based on the fair use clause favouring the users of copyrighted content, the fairness theory heavily draws on the economic and moral rights of the creators. Since, the academic researchers are both the users and creators of copyrighted content; they have to strictly adhere to the duties and responsibilities as users and to avail

maximum benefit out of their rights as copyright content creators.

All works are not copyrightable. There are exceptions to copyright protection in the public interest, such as judgments of a court. In *Eastern Book Co. v DB Modak*⁷ the apex court in India made it clear that there can be no copyright in the raw text of court judgments and decisions. The Court adopted the 'minimal degree of creativity' as the threshold for copyright protection and further held that to claim copyright, mere copy editing would not suffice. However, head notes would qualify for copyright protection since there is some creativity involved in their making.

Fair Dealing for Research, Study and Instruction

Section 52 of the Act confers certain rights on the content users including researchers to access material. While Section 14 of the Copyright Act enlists the exclusive economic rights of the copyright owners; Section 52(1) running from sub clause (a) to (zc) provides for several exceptions to the exclusive rights of copyright owners. While exercising the fair dealing rights under Section 52, the users still have to respect the copyrighted work and safeguard them from the perils of copyright infringement. They are allowed to use only a substantial portion. The concept of substantiality is explained later in this article.

The fair dealing of the work means fair use. The copyright law of UK uses the term fair deal where the USA copyright law adopts fair use. Indian copyright statute uses the term 'fair dealing' following the UK model. The TRIPS Agreement, 1994 also provides for fair dealing as limitations and exceptions. Article 13 of the TRIPS Agreement states that members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder. The fair dealing doctrine is essential for research and academic purpose, private study and for dissemination of knowledge. The term, fair dealing is nowhere defined in the Indian Copyright Act; hence, determination of the scope of fair dealing is to be done in a case to case basis, which is always a difficult task for the judiciary. The judiciary in India and abroad has developed some tests and doctrines to determine whether a particular dispute is a case of infringement or an instance of fair dealing.

Substantiality Doctrine

Section 52 in no way guarantees the right of reproduction of the whole material. No substantial copying would justify a fair dealing. Substantial copying and material reproduction amount to copyright infringement.⁸ An insubstantial portion of a copyrighted work only can be reproduced or published as fair dealing; without seeking the permission from the copyright owner. The Copyright Act does not define what is substantial or insubstantial. The substantiality depends on how distinctive it is and how important it is to the overall work. This is purely a qualitative question. A short extract may be found as substantial if it is a key part to /distinctive of the overall work. Exceptions as fair dealing are applicable only with respect to the reasonable excerpts. The larger the copying, the less fair is the dealing. It is not academically fair and ethical to copy massively from another work and justify the copying by acknowledging the source.

Permissible Purpose Test

Under the fair dealing clause, a fair dealing with any work (a literary, dramatic, musical, artistic work, cinematographic film or sound recording not being a computer programme) for the purposes of private or personal use; research; criticism or review; for the purpose of reporting current events, current affairs or publicly delivered lecture in media like newspaper, magazine or similar periodical;⁹ do not constitute an infringement. The same exception is allowed for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding. A reasonable extract from a published work can be reproduced under Section 52 for bonafide use of educational institutions.¹⁰ Similarly, the reproduction of a literary, dramatic or musical work by a teacher or a pupil in the course of instruction; or as part of the questions to be answered in an examination; or in answers to such questions etc. is deemed to be fair dealing.¹¹ Hence, fair quotation, extracts from comments and criticism or bonafide abridgements etc. are fair dealings. In all these exceptions what is relevant is the 'purpose'. To apply the fair dealing exception, the purpose must be statutorily permitted. If the purpose is not educational or academic or private or review but commercial or economic, the dealing is not fair.¹² In *Academy of General Education, Manipal v B. Manini Mallya*,¹³ the Supreme Court held that when a fair dealing is made *inter alia*, of a literary or a dramatic work for the purpose of private use including and not limited to

research, criticism or review, whether of that work or of any other work, such a dealing does not constitute an infringement of copyright.¹⁴

The Canadian Supreme Court while answering the question, whether distributing extracts to students involves a permissible purpose, applied permissible purpose test and the court ruled in *Alberta (Education) v Canadian Copyright Licensing Agency*¹⁵ that copying material for teaching in classrooms by teachers on their own initiative would pass the permissible purpose test. The court was examining the practice of teachers photocopying passages from textbooks and distributing to students. The Canadian Copyright Board and the Federal Court of Appeal had concurrently held that since, the material in question was distributed to students as required reading; it was not distributed for the purpose of private study to qualify it for fair dealing. The Supreme Court of Canada in a 5-4 split decision overturned these findings and held that the photocopying of short excerpts should not be excluded from fair dealing protection merely because it is performed by a teacher for the purpose of instruction. The Supreme Court had examined whether the copying was 'fair' based upon the fairness factors set out by the Supreme Court of Canada in earlier decision in *CCH Canadian Ltd v Law Society of Upper Canada*.¹⁶ The test for such fair dealing, as articulated in *CCH*, involves two steps: whether the dealing is for permissible purpose from the perspective of the user of the copied materials like research or private study and whether the dealing is fair considering the fairness factors set out in the *CCH* decision. The six factors, as per *CCH* case, for the determination of fairness are: (i) the purpose of the dealing, (ii) the character of the dealing, (iii) the amount of the dealing, (iv) alternatives to the dealing, (v) the nature of the work and (vi) the effect of the dealing on the work. The decision in *Alberta (Education)* does not provide a carte blanche protection to the photocopying of material for the purpose of instruction. It holds that it is not inherently unfair or unreasonable for an instructor to photocopy a short passage from a textbook in circumstances where purchasing a copy of the book for every student is impractical or unreasonable.

In a similar development in 2012, in *Cambridge University Press v Becker*,¹⁷ it was decided by the American Court that the University would not require a license for reproduction of less than 10% of the total page count of the book. Further, the President of

Costa Rica in 2012 passed executive order allowing photocopying of academic materials and photocopying for academic use is authorized under Law 8,039.

The Indian judicial mind on this issue would be evident only with the final decision by the Supreme Court in the on-going litigation between a group of leading publishers and Rameshwari Photocopy Services attached to Delhi University. In this case, global publishing houses like Oxford, Cambridge, Francis and Taylor University Press etc. sued a small photocopying shop named Rameshwari Photocopy Services attached to Delhi University, which regularly compiled extracts from copyrighted reference books and made it available to students as course packs to students, for copyright infringement of their works. The publishing houses alleged that institutionally-supported mass photocopying is the 'death knell' for educational publishing. The analysis shows that out of the 23 books in question only 5 extracts exceed the 10% threshold set out in *Becker* and a majority of the cases involve reproduction of less than 5% of the total page count of the book.¹⁸ It was observed by many Indian critics that if an intellectual property-maximalist regime such as the U.S. can establish the threshold at 10% of the total page count, India should take the lead and peg the threshold at 20%.¹⁸ The High Court of Delhi on 19th September, 2016 while dismissing the petition by the publishers in *The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* (CS(OS) 2439/2012, I.As. No. 14632/2012) held that "making course packs for suggested reading for students by photocopying portions of various prescribed reference books does not violate the copyright of the publishers". However, the Judgment is silent as to whether in the opinion of court, Section 52(1)(i) permits reproduction of the whole book or only reasonable excerpts⁴¹

Judicial Interpretations

As stated earlier, the Indian Statute does not legislative definition for the term fair dealing. The fair dealing or fair use doctrine began in the history as a judge made exception to copyright and later on received statutory recognition. Indian judiciary also relies on relevant foreign precedents on fair dealings as seen from the following part of this article. Lord Denning in *Hubbard & Another v Vosper & Another*¹⁹ said thus: "It is impossible to define what is "fair dealing. It must be a question of degree. You must

consider first the number and extent of the quotations and extracts. Are they altogether too many and too long to be fair? Then you must consider the use made of them. If they are used as a basis for comment, criticism or review, that may be fair dealing. If they are used to convey the same information as the author, for a rival purpose, that may be unfair. Next, you must consider the proportions. To take long extracts and attach short comments may be unfair. But, short extracts and long comments may be fair. Other considerations may come to mind also. But, after all is said and done, it must be a matter of impression. As with fair comment in the law of libel, so with fair dealing in the law of copyright. The tribunal of fact must decide.”

The Indian judiciary has discussed the issue of fair dealing in a number of cases. In *Wiley Eastern Ltd. & Ors. v Indian Institute of Management*,²⁰ the Court ruled that “the basic purpose of Section 52 is to protect the freedom of expression under Article 19(1) of the Constitution of India, so that research, private study, criticism or review or reporting of current events could be protected. Section 52 is not intended by Parliament to negatively prescribe what infringement is.” In *The Chancellor Masters & Scholars of the University of Oxford v Narendera Publishing House*²¹ the Delhi High Court observed that fair dealing doctrine guarantees not only a public pool of ideas and information, but also a vibrant public domain in expression, from which an individual can draw as well as replenish. Fair use provisions then must be interpreted so as to strike a balance between the exclusive rights granted to the copyright holder, and the often competing interest of enriching the public domain. The Court borrowed four factor tests from American *Pretty Woman* case²² to determine whether a particular use of a work is fair, and thus entitled to protection under the fair dealing exception even if the use of the work doesn’t really fall under any of the categories mentioned in Section 52. These four factors are: (i) the purpose and character of the use (educational purposes or critique etc.); (ii) the nature of the copyrighted work - whether the work is eligible for copyright protection in the first place; (iii) the substantiality of the portion used in relation to the copyrighted work - the extent and nature of copying done with respect to a work; and (iv) the effect on the potential market for, or value of, the copyrighted work - whether the new work would adversely affect the market value of the original work.

Qualitative and Quantitative Test

In *R G Anand* case, the court observed that where the idea is developed into a different manner and presence of dissimilarities can negate an allegation of infringement, there can be both qualitative and quantitative test for finding the substantiality though the literal number of words copied might not be the determining factor for copyright infringement.²³ If the ‘heart of the book’ is taken by way of copying that would amount to substantial taking.²⁴ In this case, the apex court referred many foreign judgments to distinguish between fair dealing and infringement.²⁵

Verbatim Lifting

Verbatim lifting is a crystal clear case of infringement, which cannot be afforded the defence of fair dealing. In *Syndicate of Press of the University of Cambridge v B. D. Bhandari*²⁶ wherein the defendant had made verbatim copy of the several extracts from the Cambridge University publication and plagiarized even the scheme of exercise, answers, and placement topics in his impugned guide, the Court found it difficult to term it as review or criticism. Distinguishing *Syndicate of Press of the University of Cambridge* from *Ramesh Chaudhry & Ors. v Ali Mohd*,²⁸ the Court held that “a review may summarize the original work and present it for the perusal to a third person so that such person may get an idea about the work. A criticism may discuss the merits and demerits of the work. A guide may seek to enable the students of the original work to better understand it from the point of view of the examinations. Verbatim lifting of the text to the extent of copying the complete set of exercise and the key to such exercise cannot be in any manner termed as review, criticism or a guide to the original work.” In *Ramesh Chaudhry*, the court had ruled that “once the original authors of the books allowed the University to publish it in their syllabus and the University published it as a part of their syllabus prescribed for its students, the matter went into the hands of the general public and no copyright in the strict sense of the term remained with the original authors. Having been published by the University, it became more or less a public property. Any member of the public could publish a review or a criticism, or guide to this book.” Blatant copying of University prescribed book under the pretext of ‘guide’ is not permitted under fair use doctrine. Verbatim copying of the original copyrighted work for commercial benefits is not allowed. Though review, criticism and publishing guide is permissible under Section 52, independent

labour, judgement and skill must be apparent in the subsequent work. Slavish copy of the original work including a University prescribed publication cannot be termed as fair dealing.

Fair Dealing with Thesis

Unless ownership of copyright has not been transferred to another, copyright in the thesis and dissertations rests with the author, i.e., the research scholar who has produced it. It is true that the supervisors or guides constantly contribute significantly to shape the thesis by providing invaluable guidance and ideas to the research scholars in the process of research. However, no copyright subsists in ideas. Copyright subsists only in form and expression. A guide or a supervisor has to respect the research work created by his scholars though it is done under his supervision. In *Fateh Singh Mehta v OP Singhal*,²⁹ it was held that even a student can sue for infringement of copyright relating to his thesis.³⁰

Degree of Originality and Creativity

The quantum of skill, judgment and labour required for copyrightability is not very high and what is the precise amount of the knowledge, labour, judgment or literary quality which the author of any work including compilation must bestow upon his composition to acquire copyright cannot be defined in precise terms. Though there is no copyright in the ideas, facts and information *per se*, the manner in which it is presented in a work makes it an original literary work. Hence, a work on history is copyrightable, though the facts therein are not. A literary work need not be of any literary quality or merit. J Peterson in University of London Press states that "the words 'literary work' covers work which is expressed in print or writing, irrespective of the question whether the quality or style is high. The word 'literary' seems to be used in a sense, somewhat similar to the use of the word 'literature' in political or electioneering literature, and refers to written or printer matter." Researchers must be careful while dealing with new editions of old books as well. New edition of an existing work is made by making additions, alterations and deletions and if the changes made are material making the new edition original when taken as a whole, it is protected as a new work. As held in various decisions, many works which primarily appears to be so trivial for copyright are in fact copyrightable and copyright exists in catalogues,³¹ street directories, brochures, prospectus, index of railway stations or a

railway guide, or a list of stock exchange quotations. One should be wary, while dealing with collective and derivative works such as dictionaries or compilations, directories etc. since these works are copyrightable. Database,³² translated works,³³ lectures,³⁴ abridgement³⁵ question papers³⁶ etc. are eligible for copyright protection. While taking information from these copyrighted materials, the researcher has to disclose the source accurately and sufficiently.

Copyright vis-a- vis Plagiarism

No copyright subsists with respect to works in the common or public domain works. Hence, the researchers are free to use them. While using these materials, the researchers still have a duty to respect the moral rights of authors under Section 57³⁷ of the Copyright Act.³⁸ Under Section 57, the authors have special rights even after the expiry of the economic rights. These rights are inalienable and perpetual. In India paternity rights and integrity rights are recognized though the statute terms these rights as special rights of authors. Even after the expiry of copyright, one has to acknowledge the source and respect the moral rights of authors, because it is demanded as part of academic integrity and honesty. One should not claim credit for something if it is not created by him. He has to disown what belongs to others and what he has taken from public domain by giving credit to the original creators. The user must exercise sufficient caution to avoid the chances of committing plagiarism.

There are theoretically several differences between copyright infringement and plagiarism. Copyright infringement takes place only with respect to copyrighted work. Copyright is territorial in nature and its acquisition is subject to statutory formalities, such as statutorily recognised subject matter,³⁹ works of original authorship, fixation etc. Copyright is given for a specific period of time. When copyright exists for a specific period of time and copyright infringement can take place only within that duration, the perils of plagiarism would arise at anytime. If ideas are not copyrightable, there can be plagiarism even with respect to ideas. When copyright protects only expressions of idea, the allegations of plagiarism would arise if the researcher/writer fails to give credit to a person who has propounded a new idea or a phrase. Plagiarism occurs when ideas are copied without attributing the source. In copyright Infringement, the permission of the author is required, if fair dealing

doctrine is not applicable. Copyright infringement and plagiarism may merge, when the researcher, copies somebody's work without authorisation and pass it off as his own work. Doctrine of *de minimis* has no role in plagiarism. As stated earlier, while copyright insists on certain statutory requirements, these statutory formalities are not applicable for plagiarism. One may not be imprisoned for plagiarising someone's idea; however, the academic dishonesty would cast a stigma on the persons' career damaging his reputation and integrity. When copyright infringement is a legal violation of the copyright holders' intellectual property rights, plagiarism is a moral wrong and academic offence.

Conclusion

Access to the copyrighted material and new knowledge is a must for academic community to keep abreast with new developments and to create next generation of original work. Access to knowledge in itself is a human right. On the other hand, protection of the economic rights in the copyrighted material and moral rights are also human rights of the content creators. These two rights are to be balanced. The copyright law as a welfare legislation tries to balance this. The exceptions and limitations attached to copyright are meant for protecting the public interest to have access to the works and for dissemination of knowledge. Unauthorised use of someone else's work contrary to the statutory exceptions is not a fair use. Fair dealing is the important exception primarily for non commercial educational and academic activities. Since copyright is based on automatic protection clause under the Berne Convention,³⁹ and no formalities including registration are required⁴⁰ apart from the minimal statutory requirements, for the enjoyment and the exercise of copyright, the users and researchers should be extremely careful.

As researchers and writers, the members of academic community have to be vigilant to protect their copyright in their creative works; at the same time they have a duty and responsibility to respect the rights in the works of others, who provide them the building blocks for further creativity. This duty to respect authors and their works is a part and parcel of academic integrity. Academic integrity and honesty go beyond the limited period of legal copyright and any deviation from the said integrity is not only an act of plagiarism but the death knell of academic creativity.

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- 5 As per TRIPS Agreement the minimum period of copyright protection is 50 years whereas India gives protection for lifetime of the author plus 60 years.
- 6 (2008) 1 SCC 1.
- 7 *RG Anand v Delux Films and Others*, 1978 AIR 1613.
- 8 Section 52 - Certain acts not to be infringement of copyright:
- 9 (1) The following acts shall not constitute an infringement of copyright, namely:
 - (a) a fair dealing with a literary, dramatic, musical or artistic work [not being a computer programme] for the purposes of
 - (i) Private use including research;
 - (ii) criticism or review, whether of that work or of any other work
 - (iii) the reporting current events and current affairs, including the reporting of lecture delivered in public.
- 10 Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.
- 11 As per Section 52 (1) (i) and (j), the reproduction of a literary, dramatic, musical or artistic work- (i) by a teacher or a pupil in the course of instruction; or (ii) as part of the questions to be answered in an examination; or (iii) in answers to such questions; (i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a sound recording if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution or the communication to such an audience of a cinematograph film or sound recording, is a fair dealing.
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- 26 2005 (31) PTC 58 (Del).
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- 28 AIR 1990 Raj. 8.
- 29 *Case Report: Alleged Plagiarism by a Thesis Guide*, <http://copyright.lawmatters.in/2011/04/case-report-alleged-plagiarism-by.html> (accessed on 5 July 2015).
- 30 *Lamba Brothers Pvt. Ltd. v Lamba Brothers*, AIR 1993 Delhi 347.
- 31 *Diljeet Titus v Alfred A. Adebare*, 130 (2006) DLT 330.
- 32 *Blackwood v Parasuraman*, AIR 1959 Mad 410.
- 33 The first case to successfully prevent the unauthorised reprinting of lectures was *Abernethy v Hutchinson*, 3 L. J. Ch. 209 (1825).
- 34 *Govinden v Gopalakrishna*, AIR 1955 Mad. 39 and *Macmillian and Co. v K. J Kooper* (1924) 26 BOMLR 292.
- 35 *Jagdish Prasad Gupta v Parameshwar Prasad*, AIR 1966 Pat 33 and *University of London Press v University Tutorial Press* [1916] 2 Ch 601.
- 36 Section 57 -Author's special right: (1) Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right -
 (a) to claim authorship of the work; and
 (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation:
 Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of Section 52 applies.
 Explanation: Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.
 (2) The right conferred upon an author of a work by sub-section (1), may be exercised by the legal representatives of the author.
- 37 Section 38 B of the Act confers moral rights for performers as well.
- 38 Section 13 of the Act.
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- 40 Registration is optional not mandatory though registration of copyright has its own evidentiary value.
- 41 Sivakumar S & Lukose Lisa P, *Right to Photocopy*, The Hindu, 26 September 2016