

**NATIONAL LAW UNIVERSITY, DELHI**  
**LL.M. (Professional), II -Semester (Batch of 2019)**  
**Online Take Home Assessment- 2020**

**Paper: Copyright & Neighbouring Rights and Industrial Designs**

**Time: 6:00 Hours**

**Total Marks: 50**

**Instructions:**

1. Mail your assignments only to [submissions.llmpro@nludelhi.ac.in](mailto:submissions.llmpro@nludelhi.ac.in)
  2. All questions are compulsory.
  3. No clarification shall be sought on the question paper.
  4. Please keep your answers brief and to the point. Plagiarism will be strictly monitored and would lead to deduction of marks. Only the following can be copied and should be in quotes:
    - a. Legal provisions
    - b. Extracts from court judgments
  5. **Mention only your Name, Roll No. and subject name on the First page. Start writing your answers from the second page only. Do not mention your name and roll no on any other page.**
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1. Anurag and Shishir are friends, based in Mumbai, India. Anurag writes stories and poems as a hobby while Shishir writes stories, poems and musical compositions as a profession. Anurag and Shishir have the habit of sharing their works with each other for feedback. On the occasion of Independence Day, they got to talking about the country's struggle for freedom which gave them the idea to write something about it. Anurag wrote a short story on the independence struggle and some poems which he compiled into a book. Shishir also wrote a short story on the independence struggle and compiled a collection of short patriotic poems written by different poets, which he found inspirational. He also supplied his own comments and interpretation of those poems in the compilation. Anurag and Shishir share the stories and the compilations with each other and find that the short stories written by them are extremely similar, almost identical. In some places, even the clothes worn by the characters and their names are similar. However, both had no access to each other's work while writing.

Subsequently, Shishir discusses the story written by him with another friend, Chandan who is a film director. Some months later, Shishir comes to know that Chandan has made a movie on India's freedom movement. When Shishir watches the movie, he gets the impression that the movie is based on the story he had shared with Chandan and wants to file a suit for infringement of copyright against Chandan.

Shishir also shared the musical composition with some of his other friends and later came to know that a major production house has used 5 seconds of the musical composition in the title track of a big-budget movie they are about to release. Shishir got in touch with the producers asking them to remove the song from the film but the producers refused, saying there is no infringement since they have only used 5 seconds of Shishir's musical composition.

Answer the following questions:

- a. **Identify the works which qualify for copyright protection.** (5 Marks)
  - b. **Do Anurag and Shishir need to make an application to the Copyright Office to have copyright protection for their works?** (3 Marks)
  - c. **Since the short stories written by Anurag and Shishir are similar, almost identical, who will have copyright on the story?** (5 Marks)
  - d. **Since Anurag had discussed the story written by him with Chandan, is it infringement of Shishir's copyright in the book when Chandan makes a movie with some elements from the book?** (7 Marks)
  - e. **Is it infringement of Shishir's copyright in his musical composition if the production house has only copied 5 seconds from his musical compilation to incorporate in their new song?** (5 Marks)
  - f. **What remedies does Shishir have in case it is proved that his copyrighted work(s) is/are infringed?** (5 Marks)
2. Leena and Mahesh are final year students in a music school and during their farewell party, they perform three different renditions of a song which they had written and composed together. One of their fellow students, Saloni, is recording the performance on her smartphone to be able to listen to it later. However, she later shares it with a friend who happens to be working with a record company called ACB Music, who then shares the recording with his manager in the company. The manager decides to reproduce the record and make it available for streaming on ACB Music's online channel on payment of certain fee. Leena and Mahesh have nowhere been acknowledged as the performers. Also, ACB music later uploads modified versions of the recording on their online channel, with added lyrics which is obscene and derogatory in nature.

Answer the following questions.

- a. **What are the different rights available to Leena and Mahesh in the context of Copyright Act, 1957? Have any of their rights under the Act been infringed and if so, what remedies do they have?** (8 Marks)
- b. **Is it infringement of the rights of Leena and Mahesh if Saloni makes a recording of their performance on her smartphone?** (2 Marks)
3. Parimal is an artist and the founder of a small business which sells household items such as storage boxes, flower vases, lamps, showpieces etc. over the internet. Parimal himself creates the designs for these items. For example, he has created a painting which his company has reproduced on flower vases, which are one of their best-selling items. Parimal also came up with the idea of selling lamps of different shapes such as a lamp in the shape of Eiffel Tower or a lamp in the shape of Hawa Mahal. His company also makes storage boxes with a unique *stackable* design, which allows saving of space. However, that is not the only feature of the storage boxes and they come with a variety of beautiful paintings embossed over them, which are created by Parimal himself. However, Parimal is not aware of the Industrial Designs Act, 2000 and has never registered his designs under the Act.

Answer the following questions.

- a. **Are the designs created by Parimal eligible for protection under the Industrial Designs Act, 2000? Since designs such as the Eiffel Tower or the Hawa Mahal have been in the public domain for many years, will they be eligible for registration under the Act?** (4 Marks)
- b. **Keeping in mind the provisions of the Industrial Designs Act, 2000 and the Copyright Act, 1957, how will Parimal's rights be affected in respect of his designs, if he has never registered them under the Designs Act?** (3 Marks)
- c. **Given that the stackable design of the storage boxes is a functional feature, how will it affect the eligibility of the design for registration under the Designs Act, 2000?** (3 Marks)