

NATIONAL LAW UNIVERSITY, DELHI

LL.M. (Professional), Semester-II (Batch of 2020)

End Semester Examinations, July-2021

Paper: Copyright & Neighbouring Rights Law; Industrial Design

Total Marks: 100

Instructions:

1. All three questions are compulsory.
2. No clarification shall be sought on the question paper.
3. Please do not repeat the facts unless they are extremely relevant in answering the questions.
4. Answer every main question in less than 3000 words (max.) in total.

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- I.** X is a publishing company in India and is a major player in publishing medicinal books and journals. X has published a very popular guidebook that containing answers to past year's question book for medical entrance exams. In doing so, it has copied entrance exam question papers released by AIIMS and other medical colleges. The answers are rephrased and written by relying on popular books prescribed by AIIMS for students of medicine. X has never registered its copyright on the guidebook in India or elsewhere. X's guidebook becomes very popular in India, South Asia and Africa since students from these regions regularly apply and appear for medical entrance exams in India. During the year 2020 and 2021, the breaking of supply chains and trade between India and other regions owing to the pandemic, there was a huge and unmet demand for the guidebook. Y is an NGO that works for the welfare of promoting open access to educational knowledge. It seeks a licence from X to publish the guidebook in digital format, including audible format, to be made free available by Y on its website. X refuses to licence citing potential loss of revenue of its existing sales in print copies, unless Y wishes to buy out the copyright in the guidebook vested in X. Y does not want to buy the copyright. Y makes available a scanned version of the guidebook that it found on Sci-Hub on its own platform for free of cost and puts up a disclaimer that "the guidebook shall be strictly used only for educational use". X sues Y for copyright infringement in its guidebook.

Answer the following questions:

- a. What remedies are available to X against Y for infringement of its copyright?
- b. What is the defence available to Y in relation to invalidity and fair dealing in the context of potential infringement of copyright in X's guidebook?

(35 Marks)

- II.** 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.
- b. Do Anurag and Shishir need to make an application to the Copyright Office to have copyright protection for their works?
- c. Since the short stories written by Anurag and Shishir are similar, almost identical, who will have copyright on the story?
- 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?
- 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?
- f. What remedies does Shishir have in case it is proved that his copyrighted work(s) is/are infringed?

(35 Marks)

- III.** 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 are 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?
- b. Is it infringement of the rights of Leena and Mahesh if Saloni makes a recording of their performance on her smartphone?

(30 Marks)