

# NATIONAL LAW UNIVERSITY DELHI

LL.M. (Professional), Semester-II (Regular Students-Batch of 2021)

End Semester Assessment (Online), September-2022

Paper: Copyright and Neighbouring Rights Law; Industrial Designs

Time: 6:00 hrs

Total Marks: 70

## Instructions:

1. Question 1, 2 and 3 are compulsory. Choose one among Q.4 and Q.5
2. No clarification shall be sought on the question paper.
3. Maximum word limit for 20 Mark answer is 2000 words and for a 10 mark answer is 1000 words.

- Q.1) A prominent politician hires a ghost writer to write an auto-biography. The contractual arrangements require waiver of moral rights (and not assignment) granted to authors under section 57 of the Copyright Act, 1957. In a few years, the ghost writer discloses in public that she was the actual author of the politician's biography and claims authorship of the biography as the ghost writer. The politician sues the ghost writer for contractual violation. She argues that contracts that require waiver of moral rights are against her moral right (i.e. to assert authorship of a work). Examine whether Section 57 allows for contractual waiver of moral rights in India.

(20 Marks)

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

(10x2= 20 Marks)

- Q.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?
- 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?

(10x2= 20 Marks)

- Q.4) Examine the regime for protection of neighboring rights in India and critically evaluate the decision of the Delhi High Court decision on the "hot news doctrine". (10 Marks)

OR

- Q.5) Examine the Sci-hub/lib-gen dispute currently pending at the Delhi High Court where publishers have petitioned the court for grant of injunction against pirate/shadow libraries. (10 Marks)