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# ANTHOLOGY FOR EDUCATIONAL PURPOSES UNDER COPYRIGHT

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## I. ABSTRACT

In the course of the years, rapidly emerging technology have influenced the academic environment in many ways. Access to a variety of information is now simpler than ever. Although technology development is a benefit, many issues arise. They are never overwhelming. Technological itself most frequently arrives with remedies Owing to technological developments, this accessibility has also created a pandora box of false and incorrect material accessible on many academic and non-academic sites. It is thus essential that correct and well investigated information be disseminated. Academic research is at stake here. Good academic research is also essential in the creation of well-written and comprehensive textbooks which may be utilised for academic purposes. The recent High Court decision in Delhi that acknowledged this concept was welcomed by students, Indian publishers, etc. as historical. This article would thus analyse the exemption to fair usage for educational or scholarly reasons. It also explains the Indian stance on copying, whether it constitutes a copyright violation in light of the current High Court decision in Delhi. Further this article will also analyse the implications of the case Delhi University which dealt with copyright law and fair use in context of authorial rights and academic access.

## II. KEYWORDS:

Copyright, Fair Use anthology, Educational Fair Use, Leaning Materials, Intellectual Property Rights.

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### III. INTRODUCTION:

The usage of copyrighted content is critical to the process of learning. Educational resources are available in a variety of media and are considered "works" under copyright law. The law offers a variety of exemptions that enable for using all forms of copyrighted material for such academic purposes, easing the pressure on educators and pupils who want to use copyrighted works as portion of their educating and training process. If you're using content for educational purposes, that doesn't mean you may ignore copyright. What this means is that you must know when one could use a material without seeking authorization or incurring a licence charge, and when one must obtain permission or pay a licence price.<sup>2</sup>

Prime Minister Manmohan Singh said in his speech to the country on August 15th, 2007, celebrating 60 years of independence, *"Education is perhaps the basis through which a modern, successful community can be created... We must strive for more than information literacy; we must strive for high-quality schooling that is cheap, affordable, equitable, and convenient to each and every girl and boy who want to explore."*<sup>3</sup> The Supreme Court recognised and formalised a fundamental right to education through a constitutional provision.<sup>4</sup> Regardless of the fact that education is increasingly acknowledged as a critical means of achieving improvement and trying to address inequality, there are still a variety of impediments to free public education and the creation of high-quality academic institutions in India. Although India is the world's 2nd biggest nation by population, it ranks a dismal 128th in the UNDP's development indicators for education.<sup>5</sup> According to the 2001 census, the country's total literacy rate was 64.8 percent.<sup>6</sup>

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<sup>2</sup> Ruth Soenterndorp and Bartolomeo Meletti, Education, available at: [Education - CopyrightUser](#)

<sup>3</sup> Prime Minister Manmohan Singh of India, The Prime Minister's Independence Day Speech (New Delhi, August, 2007) available at: <http://pmindia.nic.in/speech/content.asp?id=570>

<sup>4</sup> See AIR 1992 SC 1858, JT 1992 (4) SC 292, 1992 (2) SCALE 90, (1992) 3 SCC 666.

<sup>5</sup> UNDP, UNDP Human Development Report (2007-2008).

<sup>6</sup> See Government of India (Ministry of Human Resource Development), Mission Statement of National Mission on Education through Information and Communication Technology, available at: <http://www.education.nic.in/dl/MissionDocument.pdf>

Delhi University case<sup>7</sup> is pivotal in analyzing fair use within technologies. It raised several questions on educational purpose, market impact, transformative use purposes. The principles applied in this case include the amount of the portion used, balancing the purpose and nature of use and its effect on market.

#### **IV. THE SIGNIFICANCE OF COPYRIGHT LAW IN ACADEMICS AND RESEARCH**

Copyright in the field of academia and investigation is an area which Indian laws have little addressed. This is mainly because goods linked to education and education have never been regarded a commercial commodity in India. It was more regarded as a vehicle for teaching. Nevertheless, circumstances have improved dramatically. Today, the Internet is the cultivator of plagiarism, duplication and other actions, which constitute a clear violation of academic and publishing standards. The objective of copyright law is to protect, acknowledge and to the degree that the work created by a creator is economically exploited. Copyright legislation would make the acknowledgment and commercial use of academic works easier in an academic setting. This may be accomplished by use of the economic rights and moral rights guaranteed by the legislation. Legally safeguarding your academic work may minimise the chances of unlawful copying and plagiarism. Protection of copyrights may help speed up legal action against individuals who may engage in illegal research methods.

#### **V. LEGALITY OF MAKING AN ANTHOLOGY FOR EDUCATIONAL PURPOSES UNDER COPYRIGHT ACT WITHIN INDIAN SCENARIO**

Before understanding the legality of creating an anthology, let's understand what anthology means? "An anthology is a compilation of literary works written by a variety of authors. Occasionally it can refer to a single author's collected work, but it

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<sup>7</sup> CS(OS) 2439/2012

usually refers to a collection of works by a variety of authors.”<sup>8</sup> The legality of anthologies under the copyright law ranges on transformative use and market impact. One of the most important case regarding this Campbell v. Acuff- Rose Music case where SC upheld 2 Live Crew’s Parody namely “Oh, Pretty Women.” The case emphasized minimal market substitution and transformative purpose, establishing the principle in anthologies of fair use. There always existed a dilemma regarding the legality of creating an anthology for educational purposes in India, but this dilemma was cleared with the judgement of *University of Oxford and ors v Rameshwari photocopy services*,<sup>9</sup> wherein creating coursepacks such collection of works, anthology and disseminating printed material to students for the purpose of education was rendered legal and not an infringement of copyright under the copyright act.

In this case, the publishers of the copyrighted material had filed an injunction lawsuit against Delhi University and Rameshwari Photocopy for infringing their copyrighted material. They claimed that the Delhi University photocopied some books and compiled them into a course pack for the sake of education, which it then sold to students for a small fee. According to the publishers, since this constituted a clear cut case of copyright infringement, they contended before the courts to declare making course packs as an act of copyright infringement and thereby prohibit individuals from making any kinds of course packs. The publisher also contended that allowing photocopies would be detrimental to the publishing industry.

To this, the single judge bench of Delhi High court by pronouncing a verdict against the publisher held that the consolidation of reading materials from a number of books and the preparation of course packages were protected as a fair use of protected content. And hence, therefore was no infringement of the copyright materials. The publishers appealed the decision to the Delhi High Court's Division Bench, claiming they were aggrieved by the decision of single judge's bench. The Division Bench of the High Court of Delhi referred the case in September 2016 to Single Judge Delhi High

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<sup>8</sup> What is an anthology, available at: [What Is an Anthology?: 4 Notable Examples of Anthologies - 2021 - MasterClass](#)

<sup>9</sup> University of oxford v Rameshwari photocopy services, available at: <https://indiankanoon.org/doc/114459608/>

Court on the assumption that compiling the package would naturally be used as instructions by the teacher.

The publishers decided to withdraw the petition from the Delhi High Court in March 2017, noting that they recognised the importance of course packs in students' education. But then, the Indian Reprographic Rights Organization lodged a Special Leave Petition before the Supreme Court in the month of December 2016. They disputed the verdict of the Delhi High Court's division bench, which determined the creation of course packs to be legal and permissible for educational purposes in India. Dismissing the petition filed before it, the Supreme Court that ruled in the favour of the university declared the creation of course packs for the purpose of academic and institutional purposes as legal and not constituting an infringement of the copyrighted material.<sup>10</sup> Though the verdict was pronounced taking the socio-economic condition of students in India, the judgment pronounced in this case set a landmark precedent for considering creation of course packs and anthologies for the purpose of educational and academics as legal in India.

A. *Further analysis of the decision of the court*

Section 16 of the Copyright Act says that almost no individual shall have the right, apart from under and in conformity with the requirements of the Copyright Act, to copyrights or other equivalent rights in any work. It therefore converts the copyright to a specific provision from a natural or common law right. Section 51 states that copyright shall be violated if anybody does something unique to the owner of the copyright granted by the law. There is no debate that these works come within the definition of unique literary work. Section 14(a)(i) and (ii) shall get an exclusive right, with regard to those works, – reproducing the piece in any substantive way including all the electronic storage of the piece in any media and – to provide a public copy of the work not even being reproductions still in distribution to the copyright owner.

The issue is now if it will include photocopying work like the defendant No.2 University does. Section 2(x) specifies reprogramming by duplicating or similar

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<sup>10</sup> Vanija Bijmohan, Can educational Institution use copyrighted materials, available at: <https://blog.ipleaders.in/copyrighted-materials/>

methods the production of reproductions of a material. As such it is possible to infer that, under Section 14(a)(i) – reproducing the work means creating photocopies of the work. Long ago actually, in *British Oxygen Company Ltd. Vs. Liquid Air Ltd.*<sup>11</sup> it was also decided that the replication of photographic replication of literary work. Consequently, the exclusive privilege of the writer or creator of the piece of literature and copyright inside that sense of section 14 is the right to create replicas. Thus, the production of replicas by the defendant No.2 University constitutes a copyright breach within the terms of Section 51 and the photocopies thus produced are a copy that is infringed by Section 2(m) unless such conduct is classified as a non-infringement act well within terms of Section 52.

Section 52 contains actions which, while infringing Section 51 as referred to in Section 14, were determined not to constitute a copyright infringement. The circumstances of the current case are entirely covered by Article 52(1)(i), which comprises a replication, in the course of teaching, of any work I by a teacher or a student. The university that reproduces the work by making photocopies of the work would be part of the term "instructor of the work" in section 52(1) (i). Section 52(1)(i) cannot be interpreted as giving an individual instructor and a student and does not exist either at the time of its insertion in the Statute or in society.

The Supreme Court in *S.P. Gupta Vs. President of India* 1981 Supp (1) SCC 87 decide that any legislation had to be interpreted along the same lines as the transformation of concepts and, to the large extend that the communication allows or rather does not preclude it, had to undergo adaptation in compliance with the relevant of a fast-expanding society. Therefore, simply because education is now part of an institution like defendants No 2 University and the defendant No 2 University reproduces any copyrighted activities on behalf of its instructors by producing replicas thereof, it is protected by Sec52(1) (i). Thus, photocopying of chosen or significant portions of the books bought by the University for use by students and instructors in the field of education will not constitute copyright violations according to Article 52(1) (i).

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<sup>11</sup> 1925 Ch. 383.

The Indian Copyright Act (1957) enables a teacher or student to copy any work for teaching. In a different view, the Court ruled those reproductions of a work not just by a particular group of students or teacher but also by numerous instructors and pupils. Furthermore, the court ruled that the term 'instruction course' includes any guidance for the length of a whole course of study of education and not restricted to teaching in the classroom alone. The court ruled that no licence is needed to acquire the copying licence from the institution, since the activities are protected under section 52(1) (i). The principle of fair use, including minimal market substitution, transformative use are central to the analysis and plays a major role of anthologies under the laws of copyright law. Through balancing these factors the court aims to adopt a creative expression along with that it also ensures a fair marketplace for their works and protects the rights of original creators,

## **VI. ISSUES OF CONVENTIONAL COPYRIGHT IN EDUCATION**

Academic institutions are one of the leading copyright users. They are doing this via virtually every way of exploiting a work, i.e., through reproduction, public communication, modification, abstraction, interpretation and sometimes even performances. Copyrighted work must often be implemented in study material and textbooks, in lecture halls, on related to research thesis, in question papers for examinations, in answer books and in extra - curricular activities by teachers and students, such as television programmes, publishing magazine covers in schools and college, etc. Any use of copyrighted content usually requires the owner's permission<sup>74</sup>. Education is, nevertheless, an activity requiring particular attention, given its significance in human growth. Constitutional exemption is thus granted for certain usage by educational establishments.

The Copyright Act allows the fair handling of a literature, theatrical, artistic or creative work not a computer programme, including study or critique of such work and other works, for private use.<sup>12</sup> Several of the other authorised action Publication in a compendium consisting largely of non-copyright issues and, therefore, not in the title or in any publication published by or on behest of the publishing house, of short

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<sup>12</sup> Section 52(1)(a) of the Copyright Act, 1957.

texts of poetic or dramatic articles published, which are not themselves published for the use of Academic establishments where the copyright exists: If not more than two such texts are published by the very same author over a period of 5 years from the same publisher.<sup>13</sup> Replica of a work of literature, dramas, music and art:

- i. instructor or student during teaching;
- ii. problems to be solved inside an examination; or
- iii. responses to these questions.<sup>14</sup>

Performance in the duration of the actions of the educational establishment of the employees and students of the institution of a poetic, dramatic or musical endeavour, films or sound recordings, where the audience is confining itself to those members of staff and their students, their parents and families and number of personnel involved in the work of the institutions or in the process of communication.<sup>15</sup>

Other legislative exemptions are also useful in specific operations of academic institutions. Those exemptions concern: the performance by an amateur club or organisation of a poetic, theatrical, or musical work if it is done to a non-paid public, or in the interest of a religious organization;<sup>16</sup> publication in a magazine, newspaper or other newspaper of a piece on current global financial, governmental, societal or cultural issues unless when the writer of such item has explicitly retained his right to reproduce it;<sup>17</sup> a report of a lecture given to the public by a journal, magazine or other periodical;<sup>18</sup> and a replica for analysis or independent study or for publishing of the unpublished artistic, dramatical or musical work preserved in a library, institution or other facility accessible to the community.<sup>19</sup> Special rules concerning computer programmes which, under certain circumstances, make decompilation and reverse engineering possible are also of great importance for instructional activities.<sup>19</sup> Nevertheless, the legal provisions, which are often established via modifications to the

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<sup>13</sup> Section 52 (1) (g) *ibid.*

<sup>14</sup> Section 52 (1) (h).

<sup>15</sup> Section 52 (1) (i) *ibid.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See Section 52 (aa), (ab) (ac) and (ad).

fundamental laws, did not prevent problems being referred to the courts who usually took a pro-educational stance as laid forth in a judgement of 1934:<sup>20</sup> All regulations that restrict human behaviour and business must be built in a fair and compassionate manner.

Under the copyright, a complainant cannot request the Court to block all paths of study and scholarship and all boundaries of human understanding. these are in line with a previous court judgment of high court Allahabad in 1916<sup>21</sup>, that also decided that if a person "disposed of to the university authorities unconditionally the outcomes of the work, even he would have wished to receive compensation or copyright protection after the university publishes the same, they were made public property. In 1965, the High Court of Jammu & Kashmir (Jammu & Kashmir)<sup>22</sup> also referred to the above-mentioned case, once the original writers of books had permitted these reading materials to be printed in their syllabuses by the college, and the college publishes those reading material as part of their curriculum scheme approved for the students. The Court found that the guide to India, a textbook for general studies on the University of Madras in 1955, rejecting the allegation of violation of copyrights, was a 'comment on the original piece' needed to allow college pupils to participate effectively to queries that may be asked in one instance<sup>23</sup> The replicas in the handbook were regarded under the terms of the law as "fair trade."

The guiding notes were likewise inside the exception in *Romesh Chowdry vs Ali Mohamad* <sup>24</sup>. In another instance, meanwhile, the High Court in Calcutta considered that guidelines competing with the originating textbooks were "not in the public interest of education progress" and ruled them not suitable to be subject to copyright protection.<sup>25</sup> There had also been questions about what is 'personal study' and what is 'research,' for whom copyrighted works may legally get it without the owner's consent. As the Act is silent about the meaning of these words, courts must rely on the

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<sup>20</sup> Kartar Singh Giani v Ladha Singh, AIR 1934 Lah. 777.

<sup>21</sup> Mohamed Abdul Jalil v Ram Dayal, AIR 1916 All. 216

<sup>22</sup> Ramesh Chowdhry v Kh. Ali Mohammad Nowsheri, AIR 1965, J&K, 101

<sup>23</sup> E M Forster v A N Parasuram, AIR 1964 Madras 331.

<sup>24</sup> Ramesh Chowdhry v Kh. Ali Mohammad Nowsheri, AIR 1965, J&K, 101.

<sup>25</sup> Secondary Board of Education v The Standard Book Company, Calcutta Weekly Notes (1966) 1130

interpretation of the thesaurus. Nevertheless, in *Blackwood v Parasuram* case<sup>26</sup>, the court made clear that private studies were not subject to publishing and that, if the material was published, safeguards could not be taken by the private study clause. The decision cited Copinger and Skone James: "Private study solely deals with a student who copies a book for his personal use, but does not include copies between other pupils."<sup>27</sup> Likewise, the Court likewise denied the allegation that a guide book that summarises a copyrighted work with significant copies of the same as excerpts, is analysis because research is an inquiry "through thorough examination of the topic, which is a finding of some fact."<sup>28</sup> In several cases, the extent of "fair dealing" was also a concern. It is not defined in the Laws and is usually determined on a case-by-case basis. A publishing that significantly damages the owner's copyright is not a fair bargain.<sup>29</sup>

In reality, this is in accordance with the English case whereby "the complete recognition of the originality and the devoid of any fraudulent intentions is seen would not justify the appropriator of need to damage and replace the selling of the original creation, where the consequence of the appropriation is."<sup>30</sup> It also poses the question of the validity of textbook as well as other copyright materials, which at many academic institutions is standard practise. Replication shall be reproduced, and the Law shall make replication an exclusive copyright owner's right. Where any reproduction is a violation of copyrights without consent, save where permitted by the rules on fair use, a usually serious opinion is only taken when the whole work or a considerable proportion of it is reproduced and not in the case of properly accepted brief quotes. Because the law doesn't really specify what significant courts would do or will rely on a number of criteria including, as stated above, the material impact of the replication on the owner of copyright. Two copyright problems that have not been sufficiently considered, especially at academic establishments, are the usage of the institution's facilities and the use of illegal software. In particular, the Copyright Act

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<sup>26</sup> M/s Blackwood & Sons v A N Parasuram, AIR 1959 Madras 410.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> M/s Blackwood & Sons v A N Parasuram, AIR 1959 Madras 410.

<sup>30</sup> Scott v Stanford, 1867, L R 3 Eq. 718.

bans the use of properties for copyright violations and also stipulates severe penalties for the use of violating versions of computer programmes.<sup>31</sup> As the economic value of copyright grows, owners are willing to lean on these rules to limit violations and institutions must be on their alert.

## VII. INDIAN FAIR USE PROVISIONS

The concept of fair use allows use of such copyrighted content at a restricted level, without any of the prior approval of the copyright holder. The use of it without any of the copyright owner's prior permission will not result in a copyright breach. The concept of fair use is derived from the 'doctrine of equity,' allowing copyrighted works to be reproduced. In general, the concept of fair use comes to light whenever any copyright work is utilised for scholarly purposes which ultimately benefit society. The fair use concept also makes excellent academic materials available. There is no clear measure in India's copyright legislation as to how academic work may be utilised for teaching under the pretence of fair dealing. In a benchmark judgement, Lord Denning cited *Hubbard v. Vosper*: "What's 'fair dealing' cannot be defined. It has to be a matter of degree. The quantity and breadth of quotes and excerpts must first be taken into account.... then you have to evaluate their usage.... Next, take the dimensions into consideration... There may also be other factors in mind. But that's a question of impression, and besides, said and done."

Section 52 of the Copyright Act of 1957 concerns with fair treatment. Section 52(1)(h) says that any copyrighted work may be reproduced for a teacher or a student to be included (which is to be replied to in an examination) or for academic reasons. Similarly, Article 52(1)(g) states that if a good faith copyrighted work is disseminated for academic reasons, the copyright infringement might not always constitute to an offence against it. Section 52(1)(i) also allowed 'personal or private use, included study,' as grounds for not infringing on the use of a copyright work. Therefore, many copyright protection educational resources by instructors, students or institutions

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<sup>31</sup> Section 63B of the Copyright Act, 1957.

may be utilised for academic reasons as it fits firmly within the scope of the concept of fair use.

Numerous academic establishments have switched to online teaching modalities with the start of the epidemic. A broad range of digital copyrighted content is thus disseminated between pupils. However, the way the Copyright Act would be used in today's virtual learning situation is ambiguous. Although section 52(1)(n) of the Copyright Act 2012 allows for the conservation in digital formats of textbook and other scholarly papers, it is uncertain if the same may be disseminated for educational reasons. Furthermore, the circulation of copyright academic resources may be hypothesised to fall within the sphere of fair dealing since it is carried out with a genuine purpose to spread knowledge.

## **VIII. COPYRIGHT LEGISLATION AND PUBLISHING OF ACADEMIC RESEARCH:**

Academic research publishing rules are mainly controlled by publishing companies and are not managed by copyright laws. The majority of academic publications use a subscription service in which the publisher is passed to the copyright of the scholarly research. Such publishers monetize the material economically by publishing it all behind walls of pay. Some writers, though, may circulate copyrighted works in restricted quantities. For example, the American Physical Society needs copyright to be transferred to the Society. It enables writers, though, to share preprints, post a preprint on respective webpages and also to disseminate the published version without cost. But at the other extreme, freely accessible publishers allow writers to have copyright over their work because their academic publications are accessible in the public domain. For instance, Elsevier, Routledge and Oxford University Press are part of subscription publications whereas a research gateway is an illustration for an open-access publisher.

Copyright is important in the educational area, though there are flip sides to it. Some believe that enforcing stringent copyright rules on academic resources may be an obstacle to affordable education, especially in nations in the third world. On the other hand, copyright legislation is argued to safeguard scholarly writings, thereby

preventing them from being copied or disseminated illegally. While copyright rules continue in many respects in academia, the Act is substantially ambiguous on many fronts. One may expect in the future years that clearer criteria are established to assess what could and cannot be provided under the pretence of 'educational objectives.'

## IX. PURPOSE PRIMACY

The Court stated that fair use should only ever assessed by its desired uses, namely training, and not by qualitative or quantitative purposes. The Court of Appeal's decision, which refers to case law from Canada, the USA, the UK and New Zealand, stresses that determining the 'fairness' of an appeal is entirely based on 'the benchmark of the intention of use and/or other restrictions explicitly enshrined in each of these provisions.' Thus, it is not necessary to add any further criteria or considerations for the application of Section 52(1)(i), which means that all such provisions in law include a general concept of fair use. Two facts left the High Court uncertain: whether the works contained in the course packages were essential in educational training and if photocopying whole books was permitted under Indian law. It resolved to submit these matters to a court of law for resolution. However, this trial court hearing never took place since in March 2017, in a decision unexpected by observers, the publishers chose to withdraw from the lawsuit. A joint declaration from OUP, CUP and Taylor & Francis recognised the significant importance of courses in learning and looking forward more to engaging 'in closer cooperation with higher education institutions, faculty and students to recognize and meet their requirements.'

Furthermore, in April 2017, the Indian Reprographic Rights Organization (IRRO) filed an appeal against the decision of the High Court. The Supreme Court rejected outright the appeal of IRRO on 9 May 2017. It can be said that the purpose of primacy doctrine emphasis on the transformative purpose of the use instead of the potential market impact and commercial nature. It also has prioritises the intention behind the use specially in research context and educational work as seen in the recent cases such as *Authors Guild v. Hathi Trust*.<sup>32</sup>

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<sup>32</sup> 755 F.3d 87 (2d Cir. 2014)

## X. DELHI UNIVERSITY CASE IMPACT

The judgement in the Delhi University case triumphs against private copyright holders for advantage of the educational resources in India. The case gave a light on the social economic background of education at college level in India, especially the expense of materials. Students have become champions for availability of information, and the legislation on access to academic resources has been pushed in India.

### A. Delhi University Case Impact

The judgement in the Delhi University case triumphs against private copyright holders for advantage of the educational resources in India.

The case gave a light on the social economic background of education at college level in India, especially the expense of materials. Students have become champions for availability of information, and the legislation on access to academic resources has been pushed in India.

### B. Book prices in India is a big issue.

Research presented to the court revealed that the world's south customers frequently had to devote substantially more money to book purchases since book costs are far more than those of the world's north. For instance, if US consumers were to buy the Oxford English Dictionary with the same percentage of their income, it would cost USD 941.20! These prices cannot even be afforded by academic libraries. While libraries buy numerous copies of textbooks, the student population that might be enrolled in a single course can't accommodate for hundreds of students. Moreover, recent versions are not always accessible in India for purchase. The lack of packages would thus, of course, severely affect access to education.

*"While international publishers say that almost all educational publications have cheaper Indian versions, it is wrong with our empirical study. The vast majority of the titles of the social and political legal sciences we examined had no comparable Indian versions and had to be bought at or above Western pricing. The cheaper Indian issues were frequently older and obsolete."* Shamnad Basheer writes at SpicyIP, one of India's top IP/IP blogs and innovation law/policy archives. In India, the case has improved copyright case law.

The production of packages for educational strategies is, of obviously, permitted by law. The decisions of the Court were founded on India's socio-economic environment, the reality of the education system and advances made by contemporary technologies. These are positive changes which make it possible for the law to respond to the present and emerging circumstances of Indian society.

C. IRRO stand on the copy right issue

Indian organisation for reproductive rights who requires an IRRO licence and how is it important? The word "originality" is frequently used to supplement artists, authors, and philosophers' inventiveness by investing their body and spirit in the work. When we encourage this attention and enthusiasm, it will always create a new trend towards research. This will promote novel ideas and thinking of our artistic community, both on national and worldwide platforms, to improve its performance. Preserve creativity The Indian Reprographia Rights Organization is the only body for regulating the use of contents for works of literature in India which may provide users copyrighted materials legal justification.

For this statutory licence, xerox shops, institutions, organizations and certain other commercial enterprises which are linked in any way to photocopying or reproducing any original book or content for various reasons. This restriction is essential for the preservation of our society's culture of uniqueness, since the next generation cannot get into the habit of duplicating things in life. For successful leaders, uniqueness is essential, it is a vital step towards originality, effectiveness, development, and above all success. As a loss of society it is our duty to pass on knowledge of the moral and legal significance of being original and how to cope is not an important decision for the next generation to develop and thrive.

The use or replication of copyright material without a permission is an unlawful and criminal crime. The licence will protect consumers of reprographic material from monetary loss and incomprehension! There have been a few situations of infringements of copyright in several xerox copy stores, academic and other establishments for the use of content material with copyright. The original ideas that will create a business or a store owner more personally accountable, dependable and

a law on copyright. The approach has been legal, ethical and a type of CSR activity for business, Enhancing the reliability and authenticity of reprographic users would be supported by Indian copyright law.

## **XI. INTERNATIONAL SCENARIO**

Almost all countries are protected by the copyrights of writers and users subject to exemptions from their legislative powers, either under the requirements of the Berne Convention of 1883 (Article 9 & 10), or under the obligations of TRIPS (Article 13). Article 13 of TRIPS concerns 'Limits and exceptions' and states that members must restrict restrictions or exclusions to exclusive rights to specific exceptional circumstances not contrary to regular worker exploitation, without adversely affecting the vital interests of the owner of the right. The status of fair usage in different nations is discussed here.

Article 1, Section 8, Clause 8 of the U.S. Constitution authorises the Congress to encourage the scientific advancement and the things like making by guaranteeing has an exclusive right to its individual compositions and discovers to writer and innovator for specific times. In respect of unique pieces of art or knowledge, Congress has sought to accomplish its mission by assigning an alienated right, known as copyright, to the author of such a work.<sup>33</sup>S. 106 and S. 106-A of the 17 U.S. Code or the 1976 Copyright Act provide copyright holders exclusivity rights. Under S. 107 of the 17 U.S. Code on the concept of fair use, nevertheless, fair use shall be expanded and possibly applicable to any entitlement of the copyright owner. It states "Irrespective regulations of Arts 106 and 106A, the fair use, through propagation or other implies stipulated in the same section, of the copyrighted work for such reasons as criticism, commentary, news reporting, trying to teach (which include extra versions of copies for use in a classroom), investigations or scholarship does not violate copyright. The concept of fair use in the United States has been primarily developed through a range of judgments. In deciding whether such behaviour represents an infringement of copyright, the courts have traditionally recognised the defence of some acts of

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<sup>33</sup> Christopher S. Yoo, *Critical Concepts in Intellectual Property Law, Copyright*, (Volume II, Edward Elgar Publishing Limited, Cheltenham, 2011) 4.

duplicating as fair use. The Court highlighted four criteria in *Harper & Row v. Nation Enterprises*<sup>34</sup> to establish whether the usage was reasonable. Factors included:

1. *the aim and nature of the work;*
2. *the structure of the copyright work;*
3. *the significant part of the copyright work overall;*
4. *the impact on the prospective copyrighted marketplace or value.*

In the *Dellar c. Samuel Goldwyn, Inc.*<sup>35</sup>, the Supreme Court ruled that "the most troubling of all copyright laws" was the concept of fair use. In *Time Inc. v. Bernard Geis Assocs.*<sup>36</sup>, it was ruled that "the reasonable use concept is totally equal and so flexibility that it almost defies the definition." However, the concept of fair use is unusual in that the U.S. Supreme Court examined its boundaries over and over again.<sup>37</sup> The most controversial topic in the efforts to define the concept of fair use within the mid-1960s and 1970s was education reprography. In order to emphasize the importance that fair use is inadequate for the requirements of educational replication, educators have claimed that fair use has traditionally been used primarily in competitive business settings. The Court of Eighth Circuit, in *Wihtol v. Crow*,<sup>38</sup> found an instructor responsible for the reprographically replication of a copyright song and rejected fair use for reproduction. As the duplication of the defendant was significant, the Court concluded that fair use was rejected. This dismissed the proposal of the distinct, non-profit fair use of education. *Williams & Wilkins Company c. United States*<sup>39</sup> claimed that Williams & Wilkins, the publisher sued by the (NLM), the departments of the then Department of Health Education and Woodwork, had breached copyright by photocopying and transferring the papers published in medical journals between many students, physicians and others. It was concluded that the duplicating procedure was not even printable or replicated in the dictionary meaning, and the

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<sup>34</sup> 471 US 539 (1985).

<sup>35</sup> 104 F.2d 661 (2d Cir. 1939).

<sup>36</sup> 293 F. Supp. 130 (S.D.N.Y. 1968).

<sup>37</sup> Melville B. Nimmer, David Nimmer, Nimmer on Copyright, (Vol. 4, LexisNexis, New Delhi, 2010) 13-156.

<sup>38</sup> 309 F.2d 777 (8th Cir. 1962).

<sup>39</sup> 1972 WL 17712, 670 (Ct. Cl. 1972).

libraries did not try to benefit or profit from the duplicating monetarily. Doctors and scientists who requested printouts at the library, and scientific scientists and practitioners whose scientific activity requires papers for personal use and who do not intend to replicate these for selling or for other public distribution. Photocopying should be used fairly. It was thus determined that there was no copyright violation.

*In Addison-Wesley Publishing Co. v. New York University*<sup>40</sup> nine prominent editors, nine teachers and a commercial copying centre were bringing a lawsuit against the institution for illegal duplicating of their copies. The institution and the academics had been settled on 7 April 1983 and, under resolution, certain directives were to be implemented prior to duplicating, such as getting permission from the publishers, etc. The Copy Centre also ordered applicants to pay a sum equivalent to their earnings from the dissemination of the works mentioned in the case and ordered the destruction of all counterfeit copies in its possession. It is noted that while the laws of the United States acknowledge the concept of fair use, they were more oriented towards a pro-author regime.

## **XII. CONCLUSION AND SUGGESTIONS**

Innovative current proposals are probably required in Indian educational establishments. Each organisation should have a strategy on copyright. The main aims of such regulations should be to provide incentives for professors and other university workers to provide excellent work, facilitate the professors and students' easy accessibility to the treasury and create a stress-free environment for academic labour. To this end, the strategy should provide clear instructions on the management and ownership of content by its professors and its students. It might well be essential for organizations to get into agreements with their workers and even students. At the same time, organizations also need to emerge from their indifference to policy formulation and implementation by government and copyright law. They should consider if existing legislation is adequate to allow them to carry on their educational purpose or whether any legislative changes are necessary to assist their work in the form of emerging technology. The primary purpose of a higher academic institution

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<sup>40</sup> 1983 WL 1134 (S.D. N.Y. 1983).

is to provide individuals with education at reasonable rates. It really should, however, serve as a guard for preserving public rights of access and guaranteeing that the equilibrium between both the rights of author and the broader interests of society is not skewed.

In today's digital age, when every information interaction is technologically reliant, learning and education are no backdrop. In the light of the present scenario, it takes the time to promote web-based or e-learning. A combination of conventional teaching with a modern IT system indicates a paradigm change in the educational industry. Greater internet use in education provides optimum coverage for students and instructors of web-based learning. Nevertheless, there are future dangers at every stage of growth and, in the current context, internet education provides for a violation of copyright. The fair-trade clauses of the 1957 Copyright Act defend the schools in regards of conventional education method; however, they are inefficient and unsatisfactory and failing to expand copyright protection in the context of remote learning or internet learning.

The lawmakers must thus recognise the potential consequences of distant learning and digital accessibility and strive at broadest exceptions which improve the creative solutions to current industrial problems and later include new legal provisions into the Copyright Act.

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