

IYENGAR'S

Copyright Act and Rules

Fifth Edition



Law Book Company

T. R. SRINIVASA IYENGAR'S

THE COPYRIGHT ACT, 1957

As Amended up-to-date by

The Copyright (Amendment) Acts [(23 of 1983) and (65 of 1984)]

(With Rules & Appendices)

Thoroughly revised by

Dr. R. G. Chaturvedi

Advocate

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PREFACE TO THE FIFTH EDITION

Copyright is an abstract law. It deals with and regulates traffic in a property originating in thought. The paradigms of this law are conceptual ; the principles settled are terse ; and the adjudication on such disputes, the evidence and appreciation of points of controversy in probable litigation in this field, are delicate matters.

The fifth edition of this book on the subject is a well-discussed treatise on all that is required in this branch of the knowledge of law.

Like most of Indian statutory law, this law, too, is of English origin, and the book in hand is a comprehensive account on both the English and the Indian law, brought up-to-date and meticulously recast in view of the two major amendments to this law brought about by the Amendment Acts, 23 of 1983 and 65 of 1984. Fresh comments have been appended on the amended and newly inserted provisions, and the existing text has been attuned to the amended law.

All relevant and useful appendices have been placed at the end, followed by a synoptically catalogued index to facilitate search of any relevant point. The Rules framed under the Act are included in the Appendices. The alliance of this branch of law with the law of Trade and Merchandise Marks has also been noticed.

The law in this book concerns all published matter succouring needs in all walks of human life touching its aesthetic and inquisitive instinct, covering the business of books and records and original productions of art, sculpture, music, film, radio, video, fiction, poetry and all that supplies the audio-visual taste of the present civilisation. The book in hand is an endeavour to answer the needs of all concerned with this law, be they professional lawyers, or authors, or producers and publishers.

31st March, 1985

Dr. R. G. Chaturvedi

PREFACE TO THE FOURTH EDITION

In *Miller v. Taylor*, [(1769) 4 Burr. 2303, 2335] Willes, J. said : "It is wise in any State to encourage letters, and painful researches of learned men. The easiest and most usual way of doing it is by securing to them the property in their works" Law of copyright not only secures to the authors the property in their own works, but also protects them from plagiarism.

The words of the Eighth Commandment "Thou shalt not steal" gained more prominence after the invention of printing in the fifteenth century. The growth of the law of copyright has closely followed the development of mechanical means of production, and its relevance and importance has greatly increased with the technological advances creating mass media of dissemination. Even the communist countries like the U. S. S. R. have felt the necessity of securing to the authors the fruits of their mental labour and have laws relating to copyright whereby property in the works of authors are secured to them and protected from piracy.

The law of copyright is a law creating monopoly ; but only in a limited sense, i. e., limited to the right of preventing copyright and thus appropriating to oneself the brain-work of what belongs to others. If someone also by his independent skill and application of mind and labour arrives at the same results, then there is no piracy, and no infringement of copyright.

In revising this famous book on the Copyright Act, XIV of 1957, no pains have been spared to bring the book up-to-date, both as to statutory law and case-law. Almost all the State Law Reports have been consulted in revising this popular book besides other Law Reports and latest editions of books of authority, references to which have been made in this edition.

A Table of Cases referred to, arranged alphabetically, may be found at the beginning, and a well-planned Index may be found at the end of this book for easy and quick reference to cases included and to points of interest.

It is hoped that this revised Fourth Edition will be found as useful as the preceding three editions.

High Court,
ALLAHABAD :
October 15, 1982

YUDHISHTHIRA

PREFACE TO THE THIRD EDITION

The law of copyright is a branch of the law relating to industrial property. It includes the law relating to patents, trade-marks, industrial designs, etc.

The law of copyright affords maximum protection to authors. It encourages the researches of learned men. It secures to them proprietary rights in their own works.

Copyright is a limited monopoly (closely analogous to patent rights) protecting the fruits of an author's exertion in literary, dramatic, artistic or musical compositions, which are his own property. The monopoly is, however, limited to the right of preventing copying. If an author arrives at the same results by independent means, there is no infringement of the copyright.

The law of copyright secures, to the producer of an original work, certain benefits, derived by the exercise of his brain, skill and labour, or talent or genius. The copyright given to him is not in derogation of the right of any other person, but is merely the right to prevent other persons from copying and appropriating that which is the true production and the true property of the original author or composer.

Effort has been made in this work to expound the law of the copyright, as contained in the Copyright Act, XIV of 1957. Pains have been taken to deal exhaustively, in appropriate places and under appropriate headings, the entire law relating to copyright.

Care has been taken to bring the work up-to-date, both as to statutory law and case-law. Wherever necessary, obsolete matter has been removed. New passages have been added and some old ones re-written to make the work abreast of the law. In case of doubt or ambiguity over the interpretation of any section of the Act, it will be profitable to look to the relevant English provisions of U. K. Copyright Act, 1911 on which our Copyright Act of 1914 was based for ascertaining the true meaning. However, the U. K. Copyright Act of 1911 is repealed by U. K. Copyright Act, 1956.

1st July, 1977

J. P. SINGHAL

PREFACE TO THE SECOND EDITION

Copyright, as a right of property, had occupied the thoughts of man for several centuries. From the days of Shakespeare authors and others have sought to protect their works from plagiarism. It is said that pirated editions of Dickens and Trollope were on sale in New York and Boston within days of the arrival of steam-packets carrying stolen proofs. The importance of copyright was stressed by Trollope in these words: "Take away from English authors their copyrights and you would very soon take away from England her authors". The moral basis of the protection afforded in most civilized countries against plagiarism can be stated in the words of the Eighth Commandment: "Thou shalt not steal". Such protection became important after the invention of printing which, in England, occurred about the end of the fifteenth century. It is only just that every man should be entitled to the fruits of his labour. Science and learning are in their nature *publici juris* and the creation of the mind is merely a contribution to the common stock of knowledge and enjoyment of mankind in which the public have a right. It is felt in Communist countries that the fruits of men's minds should be available to the whole world and they have, therefore, remained outside international agreements relating to copyright. The growth of the law of copyright has closely followed the development of the mechanical means of production; it is noteworthy that in England the printing licences were the earliest form of copyright.

The importance of the law of copyright has greatly increased with technological advances creating modern mass media of dissemination. It is of paramount interest to all those who are concerned in literature, drama, music and art. It has been said that "the law of copyright, despite its wide impact on so many members of the community, has come to be regarded by lawyers as well as others as an arcane branch of the law to be comprehended only by the expert." There is, therefore, need for a lucid, analytical and critical exposition of the law embodied in the Copyright Act, 1957 (14 of 1957) and the second edition now laid before the public endeavours to satisfy this need.

The second edition has been completely re-written in order to make the commentary workmanlike and entirely to the point. The section-wise treatment carries under each section synopsis headings. Authorities, Indian and Foreign, have been enlisted in the discussion and wherever necessary, quotations have been made from leading judgments to illuminate the principles. If authorities were not clear or divergent or were lacking, the correct line to be taken has been indicated with cogent reasons for so doing. The mysteries of the law have been unveiled so as to make the law understood by the lawyer as well as the layman. A well-planned and thorough Index at the end is designed to be a help to the busy reader to obtain quickly the reference on any point he is interested in. It is hoped that the work will prove useful to all those grappling with any question arising under the Copyright Act, 1957 (14 of 1957).

Independence Day, 1968

J. P. SINGHAL

PREFACE TO THE FIRST EDITION

"THOU shalt not steal", so runs the Eighth Commandment. This is the moral basis of the protective provisions of the Law of Copyright ; the principle is that no man shall steal what belongs to another. The law does not permit one man to make a profit and to appropriate to himself that which has been produced by the labour, skill and capital of another.

Two masters of English Literature, Charles Dickens in England and Mark Twain in America, suffered much unhappiness from their works being pirated. Milton spoke of a book as being the precious life-blood of a master-spirit. Not every work in the world bears the stamp of genius. The art that conceals art is the hall-mark of the supreme artist whose works are acclaimed by the common consent of mankind as products of genius and who is not of an age but for all time. Michael Angelo counselled that an artist should "take infinite pains to make something that looks effortless." The pecuniary rewards which come to the author of a first-rate work tempt lesser and unscrupulous men effortlessly to copy the artist's work and reap rewards to which they are not entitled and which by right belong to the original author. The fruit of man's brains can with the utmost propriety be called his property. It is this incorporeal right that the Law of Copyright confers on the producers of original works and what is more important, protects.

Questions of copyright began to agitate the minds of authors of books as soon as printing was introduced. Copyright first applied to "books" and was, in course of time, extended to works other than "books". The first English Act relating to copyright was passed in 1709 (8 Anne, c. 21) ; it conferred on an author the exclusive privilege of printing, re-printing and publishing his own original work. The Law of Copyright today operates on a much wider field than it did more than two centuries ago. Modern mass media based upon technological advances in Science have made possible the dissemination of the spoken or printed word on a scale and at a speed undreamt of till recently. Burgeoning international trade in literary, musical and artistic works since the last war led to Universal Copyright Convention of 1952 and has caused deep concern to the owners of copyright in countries other than the country of origin. The Law of Copyright, essentially, rests upon the statutory principle, subject to certain restrictions in the interests of the public, that the producer of any original work, be it literary, dramatic, musical or artistic, should be entitled to certain benefits derived from the creation of his brain, skill and labour. The right has been extended to cinematograph films and records.

Copyright in England as in India is statutory. The Parliaments in both countries, sensitive to the need for gearing up the law to changing and expanding requirements of society, have put recently on the statute book the Copyright Act of 1956 in England and the Copyright Act, 1957 (XIV of 1957) in India.

More than two centuries ago, the first Copyright Act in England was passed in 1709 (8 Anne. c. 21). Fourteen Acts of Parliament were passed between the years 1835 and 1875 and several more were added between the years 1875 and 1910. The succession of Acts threw the law into a state of

confusion which the Act of 1911 sought to end. It was this English Act of 1911 which was the basis of the Indian Act of 1914. The scheme of the Copyright Act, 1957 (XIV of 1957) in India is derived from the report of the Copyright Committee in 1952 which formed the basis of the latest English Copyright Act of 1956.

The changed status of India as a Sovereign Democratic Republic required that we should have an independent, self-contained law on the subject of copyright. The new Act is the product of a heightened awareness of the rights of producers of original work and has benefited by the experience gained in the working of the existing law for more than four decades. The lay-out of the Act shows a re-arrangement of the main principles of the law as it stood. The Act incorporates many new features such as the establishment of a Copyright Office under the control of the Registrar of Copyrights acting under the superintendence and direction of the Central Government, the setting up of a Copyright Board, the enlargement of the definition of copyright, provisions relating to the issue of a general or special licence for public performances by means of a radio receiving set of a mechanical contrivance, separate copyright in a cinematograph film apart from that in its component parts, story, music, etc., to name only a few. The Act comes to grips with new problems in the Law of Copyright created by technological advances since 1911 in the field of means of communication, such as broadcasting, microfilming, photolithography, movie cinemas and talkies. Besides, provision has been made for discharging our international responsibilities and obligations in the realm of copyright.

In matters of copyright, the Legislature has always kept the interest of the public before it. The Copyright Act, 1957 (XIV of 1957), affirms and protects the right of the creative artist to the fruit of his labours but it also recognises that artists are members of society and their property is the property of the whole nation. The creative genius of the artist requires for its unfoldment the stimulus of public appreciation and obtains those material rewards which public appreciation implies. It is undeniably just that he should have a copyright in his work but public interest demands that the enjoyment and exercise of this right should be limited to a term which the statute has prescribed. The Law of Copyright is concerned with a triangle of forces, the three sides being the artist, the public, and the publisher or the disseminator and the Indian Act keeps the three forces in order thereby maintaining an equilibrium of competing and conflicting forces, on the whole satisfactory to the three sides.

The Commentary on the Copyright Act, 1957 (XIV of 1957), now laid before the public, endeavours exhaustively and critically to expound the law as contained in the Act. The discussion is under appropriate headings and pains have been taken to deal with every question of law likely to arise under the Act. Authoritative and luminous decisions, which Bacon called the anchors of law, whether Indian or foreign, have been pressed into service to illustrate established principles. The best legal literature on the subject has been drawn upon wherever necessary. The case-law has been brought-up-to-date. The Commentary, therefore, constitutes a complete Manual on the important Law of Copyright as contained in the Indian Act and it is conceived that those who seek a clear answer to any question in this branch of the law will find it in this work.

In conclusion, the Author ventures to hope that the fruit of his labour will commend itself to the Bench, the Bar and the public whose discerning appreciation will be his best reward.

15th November, 1959

T. R. SRINIVASA IYENGAR

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