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Right of Authorship of copyright under Copyright law in India

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Abstract: ***One of the rights to intellectual property is copyright. To be a property right, copyright poses essential concerns regarding ownership and the processes for copyright exploitation. Authorship and possession are two separate terms in relation to copyright, each of which requires its own specific right. The author has moral rights and even the copyright owners hold economic rights. Before addressing various case laws related to authorship problems, the article addresses authorship mostly in Copyright Law and clarifies what authorship entails in different cases. The paper ends with either the Indian copyright law being scrutinised while being unable to harmonise possible ownership problems.***

Keywords: Authorship, ownership, Copyright, Intellectual property, Intangible property, Guidelines.

INTRODUCTION

Authorship are being described as the birth of both a content, in a way that can only be communicated and structured, expressing the thoughts of the author or the views of the author and perhaps another individual. An individual should not be asked for the assertion of authorship unless any creative thought is not present in his or her work. The authorship right lies only with the person who already composes a work but also prepares and arranges it. The author may have received his work from another, but he could not have copied it correctly and should have used it and submitted it to his invention.

Where even a person spent about two years translating the Quran and overusing words doing work of fiction during the time, it was held that he acquired copyright over the translated work, observing the tests and principles set out in different copyright and copyright judgments.[1]

AUTHORSHIP IN DIFFERENT CASES

Authorship of Ghost Writers

Copyright does not occur in concepts or reality, but rather in the literary style or language that essentially covers the idea. The copyright whatsoever lies with the person who supplies the skeleton, definition or ideas or experiences with the literary clothing. Where the ghost writer interprets the concept and develops, more or less separately, the structure and language, he is the author. If, however, the ghost writer is pursued to always do the job for hire, he remains in quite an employee's shoes.

If a person unable to produce a literary work contributes the material to a writer who composes a literary work materials and components given, because the former may not undertake any part in the creation of the conveyed material that is the original literary work, the written

[1] *Hafiz* v. *Abdurahiman Makhdoomi,* 1999 (3) KLT 384.

document is not, in any respect, a joint author. Where another plaintiff solely compared his observation to the defendant, who rendered notes as to which john dictated the manuscript that was read pending submission to the plaintiff and adopted any alternatives offered by him, It was held for while many of the stories where told in the verbal form or to some degree the defendant attempted to replicate the storey as the plaintiff described him, the precise form or language for which these stories were communicated to the public was still the defendant's language, and not some other plaintiff's, While all the content and capable of functioning in the manuscript was given by the complainant, the manuscript was couched in the defendant's language for which the complainant has not been liable. It was held that neither the author nor the joint author of the work was the plaintiff.[2]

It is not possible to conclude that anyone who actually copies anything being published is an author, while someone who translates something from one language to some other may be said to be an author because he has put any effort into creating the work in that other language. He will not be termed as an author until everyone produces an original matter of his own. "While, in one sense, no original matter can be found in publications such as a street director or a train running time table, there is still something, with the exception of authenticity on either the one hand and mere mechanical transcription on the other, And enables those who give the world these works to be considered as its authors..”[3]

Authorship of Collective Works:

A collaborative method differs from a work of joint authorship is a product of a collaborative of two or more authors. But even though he makes no real written contribution to the process, a person who produces a collaborative work may have been the original author as a whole. In the case of compilation in the form of a database, the author of the actual entry is the compiler of the job, while, in reality, they may have been written down, first of all, at his request, by that of the person to whom they refer. The person who forms the strategy, who pursues on this job speculation, and who hires various people to write different sections of it, The individual who thus forms a plan and scheme of the work and pays various artists of his own choice who, under certain conditions, correspond to it, and he is the creator, is modified to their own special rules.

Authorship of Compilation

Legal subjects of copyright are anthologies, indexes, encyclopaedia entries, gazetteers, dictionaries, general dictionaries, guidebooks, hotel registers, and hundreds of other cover versions which, because of their particular arrangement , usefulness, are valid enhancements to just the general store of information, In conception and execution, since they often show as much academic study and observation as that shown by writers of more sanctimonious works, they were found to be thoroughly original. For the compilation in question, originality in such works does not mean a completely fresh conception. In order to generate the original composition for commercial or other pragmatic use, the compiler must:

[2]*Donoghue v. Allied Newspaper Ltd.* (1937) 3 All ER 503.
[3] *Walter v Lane*, 1900 AC 539.

- 'start from scratch';
- do this own soliciting;
- make his own appraisal of the facts that he selects;
- write his own descriptive matter; and
- do his own editing.

The equality and level of original work demanded by the courts under that same statutes of copyright are very modest. Compilations, such as lists, social registers, company brochures, credit books, ratings the financial status of individuals and businesses participating in a specific line of business, etc. The materials during which the persons covered are obtained by means of correspondence and email exchanges are protected by the laws of copyright, even though they have no originality other than that which can be credited to an industrious and independent compilation and orderly arrangement of information, and their processing does not require the textual capacity required of authors of facts.

Compilations have always been on the same footing as maps. Any transcription of facts collected by the compiler by independent effort from primary documents is a new work, even if its objects, including the plant and now the mode of imparting the result of literary or artistic labour, are new. The examination of the finished work itself, the references investigated by the author and his methods of gathering, arranging and mixing materials indicate if the evidence of his original authorship is clear.

In Macmillan Co. Ltd v. K. and J. Cooper,[4] in which it was alleged that there is copyright in a selection or abridgement of non-copyright work, Lord Atkinson said:

"....It is the product of the labor, skill, and capital of one man which must not be appropriated by another, not the elements, the raw materials..... upon which the labor and skill and capital of the first have been expended. To secure copyright for the product, it is necessary that the labour skill and capital should be expended sufficiently to impart to the product some quality or character which the raw material did not possess, and which differentiates the product from the raw material."

His Lordship referred with approval to the decision in Emerson v. Davies,[5] bearing on the same point, and continued:

"It brings out clearly the distinction between the materials upon with it one claiming copyright has muted and the product of the application of his skill, judgment, labor and teaming to these materials, which product thought it may be neither novel nor ingenious is the claimant's original work in that it originates from him and is not copied."

[4] (1924) 26 BOMLR 292.
[5] 8 F. Cas. 615.

Later. Lord Atkinson said:

"What is the precise amount of the knowledge, labor, judgment or literary skill or tests which the author of any book or other compilation must bestow upon his composition in order to acquire copyright in it within the meaning of the Copyright Act of l9ll cannot be defined in precise term."

There is no guiding principle as to the quantum of skill or judgment required.

Authorship In Relation To a Musical Works

And it is the accidental, unsuggested product of the invention of the artist, a medieval music is original. A musical composition entirely taken from or composed from just an earlier one or parts copied from older musical compositions, without any material alteration, and combined in one tune with only minor and meaningless variants and modifications, is just not a work of authorship within in the scope of law; If, however, the meritorious and important aspects of the air or melody were the consequence of the artistic abilities of the composers, the creation would not constitute fraud, even if it corresponded to older musical works and belonged to the same song style.

Where the orchestration was the only component of an opera that was not copyrighted, it consisted with a libretto of all the components to be sung or spoken, along with a piano, and a complete score of vocal parts. Accompaniments, etc., which have not been printed, are sold in book form or, with the owner's permission, displayed on stage. That one was held that only an orchestration made of printed music had the separate talent and labour of a musician who configured the components for various instruments, had no access to an existing orchestration, had an original work which could be protected, and also that the author was entitled to have it in the public performance of opera as performed by him, Because by publishing the book Without the Protection of a Copyright, the right to show the opera ads was transferred to the public for all purposes and afterwards everyone was entitled to present it with alteration as he would like to make.

Whereby a person composed composition for a play performed by another, the musician is unable to complain about the performance of the music in accordance with either the play by a person who derives the title from both the play's arranger on the ground that he subsequently agreed to being used with just that play. The author alone, in the presence of a musical piece, is its composer. And, a person who makes requests both for plot and arranging of a musical play of which the musician and live performer have become the plaintiffs is not even a joint author alongside them.

Relevant case laws:

- New York Times Co. v Tasini [6]

Six individuals who published articles to multiple print publications (The New York Times and Newsday) and one publication are the freelance writers in the event (Sports Illustrated, owned

[6] 59 USPQ2D 1001.

by Time). The writers argued that their contracts with the publishers did not grant their rights to the retention of copyright in the documents, nor did they provide, without reimbursement, permission to electronically replicate their writings in some form of database.

The U.S. Supreme Court has ruled on the issue concerning freelance authors' entitlement to exclusive payments for hardcover editions of their work. The opinion in this case decided in favour of the writers. Justice Ginsburg's four popular opinion found that "both the print publishers and the electronic publishers ... have encroached the copyrights of the freelance authors."."

- Eastern Motion Pictures v. Performing Rights Society[7]

The Calcutta High Court held that if a producer of cinematographic films commissioned a music composer or a lyricist for compensation or valuable consideration for the purpose of making his cinematographic film, the producer of the film would be the first owner of such music or lyrics. While the 2012 revision of the copyright law did not bring any definitional amendments to clause (2) (d), some clauses protecting the national interests of the creators of the copyright work were nevertheless integrated.

- Vicco Laboratories v. Art Commercial Advertising Pvt. Ltd.[8]

The ownership claom was dismissed by the Supreme Court in the famous T.V. 'Yeh Jo Hai Zindagi' serial, as even the petitioner was unable to establish which this applicant produced or obtained a serial acting as its agent during the scope of employment or for any worthy fees charged over him to the respondent and then to the respondent's case.

CONCLUSION

The Indian Copyright Act seems unready to deal with the harmonisation between all the owner and the workers of a possible ownership dispute. The lower status with ownership rights is clearly reflected as regards workers working under a service contract and generating jobs for workers with in scope of employment. Freelancers, seems that by incorporating their articles from print to something like an electronic setup, stripped of its actual sense, the American law will successfully material infringement of theirs copyrights. Nevertheless, the lack of conceptuality in charge of harmonising the rights of the author of a creative experience vis-à-vis the publisher of a separate article can, in India, lead to the death of authorial rights. Therefore, it appears that writers employed as workers are practically subject to the discretion of a literary owners in the Indian legal set-up.[9]

[7] AIR 1978 Cal 477.
[8] AIR 2001 SC 2753.
[9] Nageshwar Rao V, *Strategies for Effective Enforcement of Copyright- International And National Perspective* in National Seminar on Enforcement of Copyright Laws, organized by Department of Law, Osmania University, 13-14 March, 2004.