



FACULTY OF JURIDICAL SCIENCES

COURSE:BA.LL.B

Semester : VIII th

SUBJECT: Cyber Law

SUBJECT CODE: BAL-805

NAME OF FACULTY: Dr.Puja Paul Srivastava

Lecture-34



➤ LECTURE 34: Copyright law and cyberspace,

Copyright in a work shall be deemed to be infringed a) when any person, without a license granted by the owner of the copyright or the Registrar of copyrights under this Act, or in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright; ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright or b) when any person i) makes or sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire or ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright; or iii) by way of trade exhibits in public; or iv) imports into India In all above mentioned cases copyrighted work shall be considered as infringed. The software copyright owner will have to prove the deceptive similarity, prima facie case & irreparable loss to claim the damages from infringer.⁸ Computer Software & Copyright Law

According to section 2(ffc) of the Copyright Act, a computer programme is a "set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular results". Computer software is "computer programme" within the meaning of the Copyright Act. These computer software are also subject matter of copyright protection under the Copyright Act. Computer programmes are included in the definition of literary work under the Copyright Act. Owner of the computer software possesses with various right including the right to grant software licenses. Software licenses can be of various types. Software Licenses Freeware licenses: Freeware is a computer software that is copyrighted, available for use free of charge, available for an unlimited time. Freeware licenses are generally created and distributed free of cost by software developers who want to contribute something to the society. However there are some limitations as well. For eg. A freeware license is personal, nonexclusive, non-transferable and with limited use. Many freeware licenses restrict the use of the software for commercial purposes. The license is non-exclusive as it does not confer any exclusive rights on a particular user. Moreover, the license is nontransferable and does not permit the licensee to transfer any rights to a third person. Open Source Licenses: As the word itself indicates, this license is open for all without any limitations. To qualify as "open source" particular software must comply with several conditions. Once any person has developed such open source license, then there must be free distribution, redistribution of such software. Owner of the Open source license cannot restrict any person from selling, modifying, distributing or using such license for genetic research etc. Shareware: This is also known as "try before you buy" software. This software usually come with full functionality for a limited period. After this trial period users must either buy the software or uninstall it from their computers. The trial period could be in terms of number of days. Demo ware: Demo ware is meant only for demonstrations. The demo ware does not have any functional features, it only serves to demonstrate the features to potential users. Software copyright owner has the right to reproduce and make any number of copies of his work as he likes. Secondly, he may display his software on the internet which would amount to display to the public. He is also vested with the rights of selling, renting, transferring, updating, modifying his software copyrighted work. No person can use such copyrighted work for his own benefit without prior permission of the owner. Nevertheless if any person exploits the copyrighted work for any commercial purpose or to cause any monetary loss to the owner, then it will amount to infringement of copyright. Even though the software copyright owner enjoys many exclusive rights yet they are not absolute and are subject to certain limitations and exceptions in order to protect and safeguard the public interest particularly of the users of the software. In certain circumstances, the use of the copyrighted work is allowed even without the permission of its author in some socially desirable circumstances. In India, some of the acts which do not constitute the infringement of copyright would be fair dealing with a literary, dramatic, musical or artistic work for the purpose of private use,

including research, criticism or review, in order to utilise the computer program for the purpose for which it was supplied or to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilize the computer program for the purpose for which it was supplied

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()