


Name:	 UPES UNIVERSITY WITH A PURPOSE
Enrolment No:	

**UNIVERSITY OF PETROLEUM
AND ENERGY STUDIES**

End Semester Examination December 2018

Course: B. TECH. (ET), LL.B. (Hons.) IPR 2015

Subject: Law of Copyrights Specifications & Claims- (Hons-1)

Code : LLBL463

No. of Pages: 05

Semester –VII

Duration: 3 Hrs.

Max. Marks: 100

SECTION A (Total Marks 10)

A. Write short notes on:

Questions	Marks	Mapping
1. Performer's right	2.5	CO2
2. Work of architecture	2.5	CO 1
3. Broadcasting Rights	2.5	CO2
4. John Doe order	2.5	CO4

SECTION B (Total Marks 20)

B. Answer the following with the help of relevant case laws or provisions:

Questions	Marks	Mapping
5. Why is playing of songs and movies in a CD player in a hotel room is considered infringement of copyright?	4	CO3
6. Can you make a cover version of the song without obtaining a license from the owner of the original song? Explain the procedure for making a cover song in brief	4	CO3
7. What are the civil and criminal remedies under the Copyright Act? (8 Marks)	8	CO4
8. How copyright societies established and what are their	4	CO4

functions?		
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SECTION C (Total Marks 20)

C. Answer the following with the help of relevant case laws or provisions:

Questions	Marks	Mapping
<p>9. The elements of computer programs can be divided into literal and non-literal categories. Generally, source and object codes constitute the “literal” elements. Company A copied some part of computer program of Company B. Explain the test applied in copyright infringement of a computer Program.</p>	5	C03
<p>10. You wish to take a print out of a book for private use however, your friend who lives in Germany asks you to scan the copy of the book and email to her in Germany. Your friend in Germany shares the scanned book with her friends and acquaintances in her University. Analyze whether it will amount to copyright infringement or is covered under exceptions in India?</p>	5	C03
<p>11. You being an author of a novel whose theme is emotional named as Mother’s pride. You assigned your right of adaptation to Mr. N to make a movie. Mr. N modified some parts of the novel for the purpose of movie. Mr. N in some parts of the movie showed violence which was not there in the novel. Answer the following:</p> <p>(1) What are moral right? Can you claim moral rights over your novel after rights being assigned to some other person? (5 Marks)</p> <p>(2) Can Mr. N make changes in the movie which changes the theme or plot of the movie? (5 Marks)</p>	10	(1) C02 (2) C03

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SECTION D (Total Marks 50)

D. Answer the following with the help of relevant case laws or provisions:

Questions	Marks	Mapping
<p>12. You wrote a script for a movie called “AYAAZ” and transferred the right to use the script to the person who commissioned you to write the script.</p> <p>Answer the following with the help of relevant provisions and case laws:</p> <p>(1) Who is the owner of the following work, which is used in a cinematography? (4 Marks)</p> <ol style="list-style-type: none"> 1. Lyrics/Script/ Dialogues 2. Music composition 3. Sound recording 4. Setup of the stage/props/costumes <p>(2) Who owns the cinematography film? Does the owner of the cinematography also become the owner of the works identified in the above question for any other purpose apart from the film as well? Explain (6 Marks)</p> <p>(3) Explain the Assignment Agreement. What are the essentials for writing an assignment agreement? Also highlight what all rights cannot be assigned after the 2012 Copyright Amendments. (10 Marks)</p> <p>(4) The owner of the movie “AYAAZ” had authorized a telecom company to use the</p>	25	<p>(1) C01</p> <p>(2) C02</p> <p>(3) CO3</p> <p>(4) C03</p>

<p>sound track of their film to create ringtones, caller tunes and other digital rights, in return for which the owner of the movie made profits. Can the owner of the lyrics/music composition and sound recording object to the use of his work as ring tone without his permission. (5 Marks)</p>		
<p>13. Several universities and university officials collaborated with Google, Inc. on the Google Books project that digitized library collections. Several authors questioned this and filed suit of copyright infringement. Answer with the help of relevant provisions and case laws:</p> <ol style="list-style-type: none"> 1. Whether libraries can digitize the hardcopy, which are in their possession without authors' permission? List out other exceptions relating the libraries. (5Marks) 2. What are the fair use exceptions relating to rights of disabled person? How is it different from taking a compulsory license for the benefit of disabled under Section 31B added by 2012 Amendment. (5 Marks) 3. What is the four-factor test for laying down exceptions? (5 Marks) 	15	(1) C03 (2) C03 (3) C03
<p>14. Viacom sued YouTube for more than \$1 billion for copyright infringement because hundreds of thousands of clips from Viacom programs, such as the Colbert Report and The Daily Show with Jon Stewart, have been uploaded to YouTube without Viacom's permission. These Viacom programs have been viewed more than 1.5 billion times. Viacom asserts that YouTube should use filtering software to thwart the uploading of Viacom content; that YouTube, allows users to share a video with up to 1000 friends and allows embedding a video into other websites, that YouTube is running an infringement-driven business because infringing videos are a draw to the YouTube site. Analyze whether Youtube can be held liable for primary or secondary infringement with the help of relevant cases and provisions.</p>	10	C03

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SECTION A (Total Marks 10)

A. Write short notes on:

Questions	Marks	Mapping
1. Doctrine of Merger	2.5	CO 1
2. Doctrine of Fixation	2.5	CO2
3. Moral rights	2.5	CO2
4. Right to remake the movie	2.5	CO2

SECTION B (Total Marks 20)

B. Answer the following with the help of relevant case laws or provisions:

Questions	Marks	Mapping
5. XYZ had broadcast an interview of Ms. Mandy Allwood, a woman who was pregnant with octuplets. Carlton Television produced a current affairs program that used a 30 second extract from this interview, and had copied the entire program for the purposes of selecting the extract to be used. XYZ sued Carlton, alleging copyright infringement, while Carlton argued that the use of the extract constituted fair dealing, as it was for the purposes of criticism or review, or for reporting current events. Examine	10	CO3
6. Explain the following: 1. Who according the relevant provision of Act has the right to convert 2D artistic work into 3D? (3) 2. Copyright societies. (7)	10	(1) CO2 (2) CO4

SECTION C (Total Marks 20)		
C. Answer the following with the help of relevant case laws or provisions:		
Questions	Marks	Mapping
7. Against Copyright Infringement, the owner has some civil and criminal remedies at his end as per the Copyright Act. Analyze the remedies available to the owner. Which court is having the jurisdiction to deal with civil and criminal case?	10	CO4
8. Explain the procedure for filling the application for copyright infringement.	10	C04

SECTION D (Total Marks 50)		
D. Answer the following with the help of relevant case laws or provisions:		
Questions	Marks	Mapping
9. “You must consider first the number and extent of the quotations and extracts. Are they altogether too many and too long to be fair? Then you must consider the use made of them. If they are used as a basis for comment, criticism or review, that may be fair dealing. If they are used to convey the same information as the author, for a rival purpose, that may be unfair. Next, you must consider the proportions.” Analyse the statement and elaborate on the private research, criticism and the use of copyrighted work for education purpose with the help of relevant provisions.	15	C03
10. In 1964, Roy Orbison and William Dees wrote and recorded “Oh, Pretty Woman”. The rights to the song were assigned to Acuff-Rose Music Inc., which subsequently registered the song for copyright protection. In 1989, Luther	10	C03

<p>Campbell, lead vocalist and song writer for an obscure band called Live Crew, wrote a version of the famous song, substituting its lyrics with ones which were obscene. Subsequently, Campbell's music production company, Luke Records, released an album which included the parody. The credits on the album recognized Orbison and Dees as the writers and Acuff-Rose as publisher of the original song. The general manager of Campbell's music production company, Luke Records, had offered to give due credit for ownership and authorship of the original song to Acuff-Rose Music Inc., and also to pay a fee for its use, but Acuff-Rose declined to grant permission. Undeterred, Live Crew continued to sell the album. Acuff-Rose contended that the lyrics were either inconsistent with good taste or would disparage the future value of its copyright. Before Campbell reached the Supreme Court, the Sixth Circuit, relying on Sony Corporation of America v. Universal Studios, (referred to as Sony) and reversing the district Court's decision, held that the song was not a fair use and thus, constituted copyright infringement. In Sony, the Court had commented that commercial use creates a presumption against fair use. Relying on this, the Sixth Circuit emphatically concluded, "its blatantly commercial purpose prevented the derivative work from qualifying as fair use." However, when the case reached the Supreme Court, Justice Souter, the author of the majority decision, rejected the Sixth Circuit's decision that all commercial parodies are presumptively unfair. The Supreme Court also rejected Live Crew's argument that all parodies should be considered presumptively fair. The Court held that every parody must</p>		
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<p>pass the test of fair use, and applied the factors set out in Section 107 of the Copyright Act to the parody in question.</p> <p>Analyze the above mentioned facts and explain the Four factor test as to whether in the above facts it can be said to be fair use or not?</p>		
<p>11. With the coming of the mobile phones towards the end of the last millennium, the markets all over the world have been flooded by different kinds of sets of the cellular phones. These mobile phones sets are offering various kinds of ring tones in a particular set, out of which the user according to his wish can select any ring tone and keep it operational, unlike the ringtones of landline telephone sets which are standard in nature. To make the ring of one's mobile set easily distinguishable from the ring tone of another mobile set, the manufacturers have made use of small tunes of famous musical works usually without the permission of the copyright holder of that musical work or sometimes they do take permission from the copyright holder.</p> <p>In the light of the above facts answer the following with the help of case laws, provisions, illustrations etc.:</p> <p>(1) Briefly discuss the issue in the instant case relating to Copyright. (5 Marks)</p> <p>(2) Discuss the ownership issue between the 'producer' and "lyricists, music composers etc." and the policy followed by Indian law. Explain the Indian law approach to concept of ownership. Also discuss the amendments made by Copyright Amendment Act of 2012 relevant for the abovementioned facts. (10 Marks)</p>	<p>15</p>	<p>(1) C03 (2) C03</p>

12. Several amendments were made in the Copyright Act, by Copyright Amendment Act 2012 Highlight the amendments made with special reference to Performer's rights, Protection of Technological measures and Digital rights Management.	10	C02