

Copyright and Related Rights Law

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LECTURE – 45

Adaptation

Welcome back to this course on copyright and related rights law. In the previous session, we started to take a look at copyright and the bundle of rights that are provided under section 14 of the Indian Copyright Act. In doing so, we had taken a look at the reproduction rights and also the issuance of copyright. In respect to the issuance of copyright, we also understood a related concern that arises with respect to the import of legitimately bought copies into India in the topic of parallel importation. In today's session, we are going to look at another kind of copyright under section 14, which is the right of adaptation. You can see under section 14, just like how the reproduction right and the issuance of copy rights were provided.

Similarly, when you read section 14, it says, "For the purposes of this act, copyright means the exclusive right, subject to the provisions of this act, to do or authorize the doing of any of the following acts." In respect of a work or any substantial part thereof, namely, in the case of a literary, dramatic, or musical work, not being a computer program, to make any adaptation of the work. The same provision regarding adaptation is also found in relation to computer programs and artistic works. What, then, is an adaptation? How do we understand what this term means? Let us understand the meaning of the word "adapt."

Adapt means to make something suitable for a new use or purpose or to modify it. What is the purpose of a book? Do you recollect? You would remember that in our sessions on understanding literary works, we understood that a literary work offers informative value, has an instructional purpose, and also provides literary enjoyment to the pleasure of reading. The changing of the purpose of an expression to a new purpose, as per this general meaning, would be an adaptation. But adaptation has also been interpreted within the purpose of the Act, and that will prove to be very helpful for us to understand. In what manner must section 14 and the use of the term adaptation be used? But before that, let us focus on another term that is used with respect to something like an adaptation.

This is a reference to a derivative expression. "Derive means to obtain something from a specified source." Let us understand that there is a clear relation between this book, which has a particular purpose. and which has been adapted or modified into another expression that is serving a different purpose. Because the adapted work is the book that is the original source, and the adaptation is linked to the original source.

We can say that an adaptation would be a derived work because it is obtained from a specified source. What is the purpose of a script? When we understand the use of a script for a play, the script provides instruction. To the performers who are going to take the stage during the play and guide their activity on such a stage, which will include movement as well. So a script can be distinguished from a book in terms of purpose. A book that effectively uses words in terms of its content would be descriptive of, say, a story.

But in what manner must that story be told? Do you see the change in purpose now? Can we say that changing the purpose present in a book to a purpose that is now satisfied through a script constitutes an act of adaptation? With this background understanding, let us approach Section 2 Clause (a) of the Indian Copyright Act, which defines adaptation. There are several subparts to Section 2 Clause a, and we will look at these parts individually. The first part you can see states that an adaptation, in relation to a dramatic work, means the conversion of the work into a non-dramatic work. What are non-dramatic works? We know that literary work is different from dramatic work and that it is a non-dramatic work. An artistic work is different from a dramatic work.

The purpose is different. The expression is different; we know that it is a non-dramatic work. Now, in the earlier example that we have taken with respect to a script, how do you convert a script for a play into a literary work? The example that we took of a book that is converted into a script could effectively happen with the instructional manner of performance of an action-oriented work. Where there is certainty of such action within the script, then we can say that the literary work has been converted into a dramatic work. Similarly, a dramatic work, such as a script, can be converted into a literary work.

A literary work, after all, is a non-dramatic work. It would then be more descriptive. It will take away the action components. Let us understand that when we refer to a very important case decided by the Delhi High Court, you would recall *Institute for Inner Studies versus Charlotte Anderson*, a case that we had discussed when we made a distinction between literary works and dramatic works. We had discussed that both literary works and dramatic works share a commonality, which is that while both of these works can be written, their purposes are different.

And therefore, the general understanding of adaptation is something that we can find in section 2(a)(i), which talks about the conversion of a dramatic work to a non-dramatic

work. The example that we took is of a script that can be converted into a book. Let us look at the second part of Section 2, Clause a, and it says, in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise. Let us see in relation to a book: how can such a conversion take place? We understand that under section 14, we discussed when we distinguished between literary works and dramatic works that literary works are also capable of performances. The example that we had considered was that of the lyrics.

Lyrics are considered to be literary works because there is no action component to the performance. Dramatic works, on the other hand, like works of choreography, are action-oriented in terms of their performance. It would be possible to convert a literary work into a dramatic work, but the nature of the performance would have to indicate the creation of a dramatic work. The additional requirement of fixation, which is required as we discussed with respect to dramatic works and the copyright subsisting in them, can be done through recordings. But how do we convert an artistic work through performance into a dramatic work? Can we imagine a painting being converted into a dramatic work? Let us understand that paintings, despite their objective appearance, can tell a story.

And this is especially the case if a painting depicts certain figures. Where it depicts certain figures and provides a context for such figures to be present on the canvas. If a performance were to be based on that context with the specific figures, would it not be possible for a dramatic work to now come into existence? According to this provision, it states that this is possible with respect to both literary and artistic works. It would be possible to create an adaptation in the form of a dramatic work through public performance or otherwise. Let us look at the third part of section 2, clause a, which defines adaptation.

It states that in relation to a literary or dramatic work, any abridgment of the work, or any version of the work, in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, newspaper, magazine, or similar periodical. Let us first look at the portion focusing on abridgment. To abridge is to shorten a piece of writing without losing the meaning of that writing. What does this mean? Imagine a book that is, say, 300-odd pages in volume. If we were to be given a task to shorten this book but retain its essence.

We could probably do it in 50 or 60 pages and this version the shortened version, which retains the essence of the work, although it is a distinct form of expression in itself, because it is derivative and takes up a substantial portion of the original expression. This will be an adaptation. Abridgments are an important consideration in terms of what derivatives can be, and as we have seen, derivatives are connected to the source, which is why they are called derived expressions. Let us now look at the second portion of this provision, which talks about representation through means of pictures where a literary

work or a dramatic work has been expressed through the means of pictures. For the purpose of reproduction in a book, newspaper, magazine, or other periodical, according to this provision, this is an adaptation as well.

You can see that there is a conversion happening here from a literary or dramatic work to an artistic work. This too, if you look at it, would retain the essence of the work. It is clearly connected to the original source. The next part of section 2, clause a, says that in relation to a musical work, any arrangement or transcription of the work is included. Let us see what these terms mean with respect to musical works.

Arrangement means a musical composition arranged for performance with instruments or voices differing from those originally specified. Transcription is an arrangement of a piece of music for a different instrument, voice, or group of these. We have understood music, musicality, and compositions. We understand that a composition is an expression of music. A composition can be represented through graphical notations, and we have understood that graphical notations will form a part of the musical work.

But musical notations, when they are created, may originally be expressed for a particular type of instrument. Which then means that if that particular notation were to be altered to fit the form that is specifically suitable for another instrument, Then this application is also something that will be called an adaptation. You can see in this comparison between images that, although the basic principles of capturing music on sheet would be the same, but the manner of notation is different to some extent between instruments. So if a notation has originally been made, say for example, for guitar, its arrangement in a different form, for piano, for example, would be considered as an adaptation. Let us look at the last part of Section 2(a), which defines adaptation.

It says, in relation to any work, any use of such work involving its rearrangement or alteration. A general provision, unlike the other specific provisions that we have seen in the earlier provision. This provision says that where there is a modification of the original work, such a modified usage of that work will be considered as the usage of an adaptation. Let us look at another interesting provision within section 14 that talks about adaptations. You can see that under section 14, after having referred to adaptation right as a copyright under the bundle of rights provided to an author, sub clause (vii) says that in the case of a literary, dramatic or musical work not being a computer program to do in relation to an adaptation of the work, Any of the acts specified in relation to the work in subclauses (i) to (vi).

How do we understand this? Under section 14, we understand that the author of the work, the right holder of the work, has the copyright to authorize adaptation of the work. What subclause (vii) says is that the author of the work also has the right to control the adaptation. Why is that? You would realize that this is because the adaptation

significantly differs from the original work. And there is no way that a derivative work, such as an adaptation, can be used in a manner that is not prejudicial to the original work.

I hope you understand this. Let me explain this again. Because an adaptation is a derivative, it is derived from the original source. We can say that the essence of the original work is present in the adaptation, which means that any commercial utilization of the adaptation will, in effect, also be a commercial utilization of the original work. If the reproduction of an adaptation were to happen, it would also be a reproduction of the expression in the original source. What about making a cinematograph film of an adaptation? Imagine a literary work, which is in the form of a book, that has been converted into a script for a film.

If the script is adapted for cinematographic film, is it not the content of the book that is being used in the film, albeit through a different expression? And therefore, what section 14 links such an adaptation and its commercial utilization to is the author of the work, which is the original source. I hope that with this, we have clearly understood the scope of the adaptation right under section 14. In the next session, we are going to look at the translation rights that have been granted to authors of works. Thank you for joining me.

See you all in the next session. Thank you.