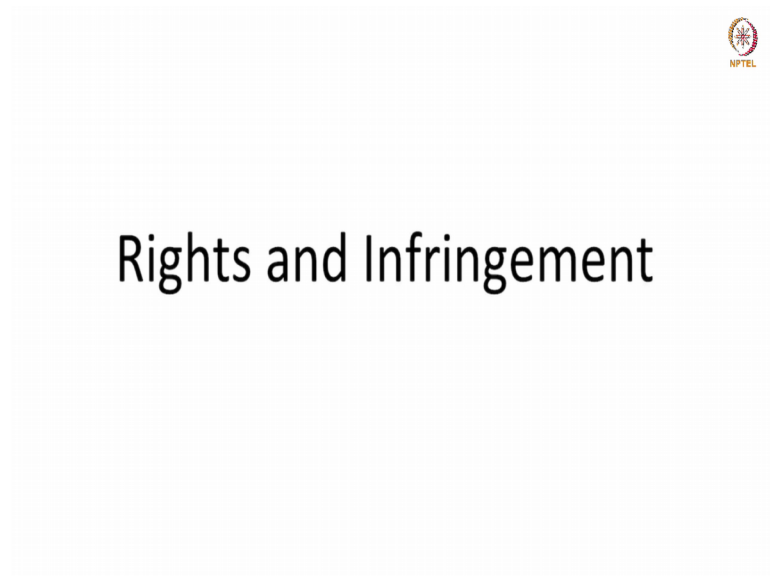


**Intellectual Property**  
**Prof. Feroz Ali**  
**Intellectual Property Rights**  
**Indian Institute of Technology, Madras**

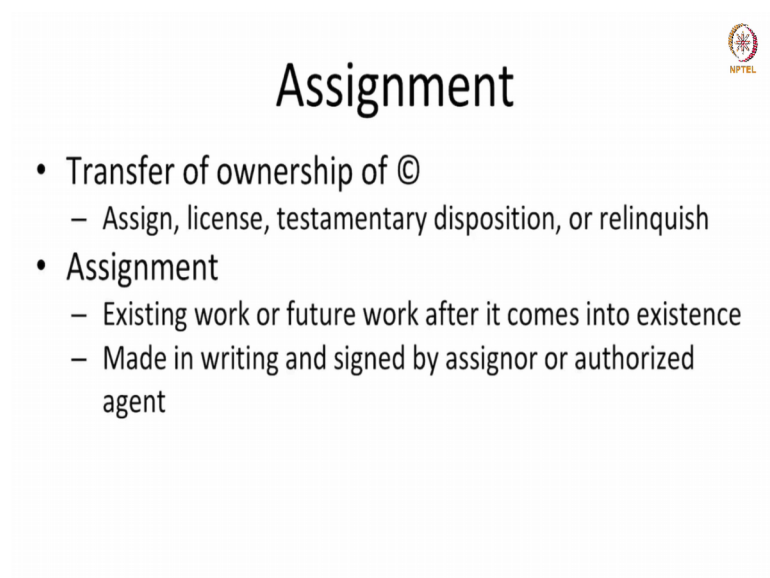
**Lec-53**  
**Rights and Infringement**

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Now, we look at rights and infringement.

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It is possible to assign a copyright and assignment of copyright is also referred to as transfer of ownership of copyright. And there are different types of assignment. You can assign a copyright wherein the all the rights in the copyright are transferred to a person or they can be a license where only certain rights are transferred. They can be a testamentary disposition where it is transferred through a will or through an instrument of succession or they can be a relinquishment of the right.

Assignment refers to a transfer pertaining to an existing or a future work when it comes into existence. So, assignment can be entered into with regard to an existing work or a future work for instance the publisher approaches you to write a book now the book may get completed in few months or in few years time, but the copyright agreement will have an assignment clause wherein the copyright will vest with the publisher upon the work coming into existence.

The assignment has to be made in writing and it has to be signed by the assignor or the authorised agent. So, assignments have to be in writing.

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## Rights of Owners




- Exclusive economic rights
  - Right to reproduce the work in any material form
  - Right to store the work in electronic medium
  - Right of issuing copies to the public
  - Right to perform the work in public or communications to the public

The owners of copyright have certain x economic rights these rights are exclusive in nature meaning which they can stop others who indulge on these rights and they can exclusively enjoy or use the rights they have a right to reproduce the work in any material form. They have the right to store the work in electronic form medium they have

the right of issuing copies to the public, they have the right to perform the work in public or communications to the public.

Now, these are the rights a copyright owner will have with regard to the subject matter of copyright. These are called economic rights because some kind of remuneration or profit is tied to these rights.

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## Rights of Owners

- Exclusive economic rights
  - Right to make film, sound recording
  - Right to make translation of the work
  - Right to make adaptation of the work
  - Right to make copy of the work
  - Distribution right

The owners also have a right to make a film or sound recording they have a right to make translation of the work. They have the right to make adaptation of the work. They have the right to make another copy of the work and they also have distribution right.

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## Rights of Owners



- Moral rights
  - Independent of author's copyright and assignment
  - Claim authorship of work
  - Restrain or claim damages, distortion, mutilation
  - No infringement—failure to display work to the satisfaction of the author

Apart from economic rights there are also rights which are called moral rights. Now the moral rights pertained to rights of an author. The moral rights exist independent of the authors copyright or assignment. So, the an author can assign the copyright or even sell the copyright to another person, but the moral rights will still exist. Now the moral right pertained to claim of authorship over the work the right allows the author to restrain when some there is some disparagement of the work or to claim damages over distortion and mutilation.

However there is no infringement if there is a failure to display the work to the satisfaction of the author.

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## Infringement

- Infringement of right of reproduction
- Reproduction of an idea
  - No © in an idea
- Reproduction as pirate copy
- Reproduction in any material form
- Reproduction by substantial copying

Infringement is a right that vest with the copyright owner in that he can take action on infringement of a copyright. The infringement can be with regard to infringement of the right of reproduction meaning which somebody else who is not duly authorised is reproducing copies of the product now this right of reproduction you will find is a theme that recurs in the Delhi photocopy case Delhi university photocopy case which will be discussed later. There can be an infringement in the reproduction of an idea especially the way in which the idea is expressed as there can be no copyright in an idea. So, the way in which an idea as expressed they can be infringement with regard to reproduction of the way in which an idea is expressed.

Reproduction as pirate copy can amount to infringement reproduction in any material form can amount to infringement reproduction by substantial copy where the material is substantially copied not, but not in its entirety still that will amount to infringement.

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## Defences




- Fair dealing
  - Research, criticism, or review
  - DU Photocopy Case
- Permitted reproduction
  - Certified copies of court
  - Reading materials by teacher, instruction
  - Private study
  - Report tabled in the Parliament

There are certain defences against infringement the most prominent defence is fair dealing that the act of infringement was done in the course of research, towards criticism or review. So, these acts will not amount to infringement and they are covered as under the heading fair dealing.

Now, we will see more details in the Delhi university photocopy case. Permitted reproduction - there are certain acts that are permitted and which will not amount to copyright infringement certified copies of the court orders. If you reproduce them, it does not amount to infringement. Reading materials circulated by the teacher as in the course of instruction will not amount to infringement materials used in private study will not amount to infringement and reports tabled in the parliament will not amount to infringement.

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## Defences

- Permitted publication
  - Display of work of architecture
  - Translation of an Act in any Indian language
- Library use
  - Storing of work for preservation in electronic medium if non-digital copy exists

The defence is also includes certain permitted publications such as display of a work of architecture that will not amount to infringement and translation of an act in any Indian language. Library use is also exempted storing of work for preservation in electronic medium if no digital copy exist is also allowed.

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## Neighbouring Rights

- Broadcasting Rights
  - Copyright owner has exclusive rights to communicate his work to the public
  - After license from © owner, broadcasting owner will have a right in his broadcast
- Performers Rights
  - Exclusive economic rights, live performers
  - Moral rights

There are certain neighbouring rights or rights that are like copyright which can be exercised by the copyright owner like broadcasting rights the copyright owner has

exclusive right to communicate his work to the public. So, broadcasting is a right which is like a copyright, but which is regarded as a neighbouring right.

After licence from the copyright owner the broadcasting owner will have the right in his broadcast. So, there is the right of the copyright owner, but after that right the broadcasting owner will have the right to broadcast in the broadcast performers rights is another kind of neighbouring right. They it pertains to exclusive economic rights in life performances and it also covers moral rights of live performers.

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## Plagiarism



- Using someone else's work without giving proper credit
- Copyright infringement is using someone else's work without getting that person's permission
- Schools enforce plagiarism
- Courts enforce copyright infringement

Plagiarism, we saw in the context of evolution of copyright law that plagiarism and piracy contributed to the evolution of copyright law, but plagiarism today is different from copyright infringement. The use of someone else's work without giving proper credit is regarded as plagiarism copyright infringement is the use of someone else's work without getting the other persons permission.

For instance, if you get a copyrighted work the permission of a copyright owner to reproduce that persons copyrighted work as your assignment in the university there will not be any copyright infringement because you have used it with the permission of the owner, but it would still amount to plagiarism for the purposes of evaluating your work within the university. In fact, the enforcement of plagiarism and copyright are by different bodies plagiarism is something which is enforced in schools and educational institutions whereas, courts enforce copyright infringement.