

# Copy Right (Amendment) Act 2012 with Respect to Digitalization of Library

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**ABSTRACT:** *Copyright plays a major role in the use of books in libraries. The copyright Act, 1957 was borrowed extensively from the new Copyright Act of the United Kingdom of 1956 since then the act has been amended six times. The copyright (Amendment) Act 2012 is more substantial. This paper explains the law and its features and implications.*

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**Copyright:** with Authors

## 1. Introduction

Copy right law plays vital role in library. Copyright having its origin first in England and Latter in U. S. A. First copy right Act was enacted in England. Copy right Act has always involved a balancing interests of various groups. There are three groups under the Act, they are in short we call it as C. P. U. Here the Creators who are granted legal rights under the Act. Publishers who have legal rights by transfer and Users (Institutions such as libraries and school) who have legal rights through exceptions and limitations to creator's Right. Therefore in practice Creators's rights are almost and always protected and the interactions between creators and publishers and between publishers and users, are governed by Contract. The Digital age presents new challenges in protecting the creators right. The libraries which are acting as the bridge and trying to maintain a balance between copy right holders and users. In order to strengthen the modern library system we have carried out amendment to the Copy Right Act. This paper is on copy right (amendment) Act 2012 with respect to digitalization of library.

## 2. Evolution of Copy Rights

The law relating to copyright was put in place in India when East India Company extended the English Copyright Act of 1842 to the territories under its control in 1847. This Act was replaced by the Indian Copyright Act of 1914 which was based on English Copyright Act of 1911. After independence, the Act of 1914 was again replaced by the Copyright Act of 1957 Copyright Act, 1957 was borrowed extensively from the new Copyright Act of the United Kingdom of 1956 since then the Act has been amended six times<sup>1</sup>. The copy right (Amendment) Act 2012 is more substantial.

## 3. Protection iOF Creators Right

Copy right gives bundle of exclusive rights to the author of copy righted work with respect of the reproduction of the work and other specified acts, to enable the author to receive financial benefits by exercising such rights and thereby encourage innovation. If a person without due permission exercises any of the rights within this bundle, then such an act is an infringement

upon the authors' copy right in the work. Like other legal rights, copyright is not absolute but is subject to limits and exception.

#### **4. Library and Copy Right Law**

Libraries are creatures of the historical and statutory balance in copy right Law. Libraries lends material for the benefit of the users. Libraries shares materials and preserve works under specific provisions for libraries in the Act. Libraries often the only entities that provide access to the vast majority of the copy righted works that lose market vitality long before the expiration of the copy rights and are often the only entities that preserve public domain materials. Libraries enabled users to access copy righted and public domain works and to exercise their rights under the exceptions and limitation to creators right in the law. Fairs use is the earliest exception under the copy right Act. The term 'fair use' is not defined under the Indian copy right Act. It has captured in legislation, with judicially derived factors being provided under Sec 52 of the copy right Act of 1957 rendering certain acts not amounting to infringement.

#### **5. Fair use**

Fair use is an exception to the rights of the author which allows limited use of copy righted material without the author's permission. For instance, fair does not allow reproduction of a whole work or substantial part of such work, but rather, extracts or quotations from the work are permitted .Such that they do not appear to take away the first authors expression of his or her idea.

#### **6. Digitization of Library and Copy Right Act**

Libraries objective is to maximize the use of a document while copy right proposes to restricted use. In this sense libraries purpose is just the opposite of copy right protection. Further copy right prevent unfair and illegal use of a document while libraries are making the same available to its potential user for research or educational purpose. Indian copy right Act deals with books that are not available in India<sup>2</sup> which is otherwise is considered as infringement. This provisions enables the libraies to make copy of the books which are not available in india. In this Sec 52(1) (o) the word 'Public library' is substituted by 'Non commercial library" The word 'non commercial' attracts special attention, it means no public library can earn money for lending those copies to its member users. This also signifies that any kind of profit making will be considered as infringement even for public library.

With regard to Library services the present amended Act provides "the storing of work in any medium by electronic means by non commercial public library, for preservation if the library already possess a non digital copy of the work."<sup>3</sup>. It ensures that libraries can made a digital copy of a document if library owns the printed non digital Proceedings of the Inernational Conference on Re-Engineering of Library Resourses and Services : Challenges and Opportunities copy of the document. This is a major step towards the initiation of digitalization of library and it is also a long awaited demand of libraries.

#### **7. Conclusion**

The copyright Act plays a significant role in providing information to the end users in a digital environment. Emergence of electronic information media and vastly lower costs for copying, the monopolistic power of the copyright holder is increasingly the primary obstacle to unfettered use of publications. The recent amendment to the copy right is a progressive step to promote digitalization of library. The future libraries, most particularly research libraries, will rest largely on the ways in which the Copyright Act exercise limits to advance education, and promote science and the usefulness

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