

Scaria, Arul, Assistant Professor of Law, National Law University, Delhi and Co-Director Centre for Innovation, IP and Competition, “Photocopy Shop Judgment: An Attempt to Strike a Balance between the Rights of Users and Producers of Knowledge Goods?”

Preparation and dissemination of course packs have been subject to copyright litigation in many jurisdictions. The decision of the High Court of Delhi in the Chancellor, Masters & Scholars of the University of Oxford & others v. Rameshwari Photocopy Services and another is one of the most recent and important decisions in this area. This judgment is resulting from a litigation initiated in the year 2012 by some of the major publishers like Oxford University Press and Cambridge University Press. According to those publishers, their rights under copyright law have been violated by University of Delhi and a small scale photocopy service operating within the premises of the University. The photocopy service in question has been selling to students course packs based on syllabi prescribed by the University. Some of those course packs had extracts from books published by the publishers who initiated the litigation. According to the publishers, apart from providing space on campus for the photocopy service, University libraries were also issuing books to the photocopy service for preparing those course packs, thereby contributing to infringement. The single bench of the High Court has ruled in favour of the University and the photocopy service, clarifying that there was no copyright infringement in the activities questioned by the publishers, in view of the educational use exception under Indian copyright law. The judgment has been appealed before the division bench of the High Court. This paper aims to explore two important questions in this context – first, whether the judgment of the single bench of the High Court is in tune with the rights and exceptions provided Indian copyright law; and second, whether the Court has attempted to strike a balance between the rights of users and producers of knowledge goods through this judgment? While the paper explores the issue of balance in the context of copyright law in India, it will be analysing the approaches taken in other jurisdictions and the relevant international treaties, particularly the question of compliance with the threestep test provided under Berne Convention and TRIPS Agreement.