

Copyright, Critique, and Conflict

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Copyright, Critique, and Conflict: Examining India's Fair Dealing Debate

Context:

A recent dispute between **ANI (Asian News International)** and **YouTuber Mohak Mangal** has brought India's **copyright and defamation laws** into the spotlight, especially the **ambiguities surrounding fair use (fair dealing)** in the **digital and social media era**.

This case raises larger concerns about the **misuse of copyright provisions**, the **scope of fair dealing**, and the **impact on freedom of expression**, particularly for digital content creators and journalists.

Key Developments in ANI vs Mohak Mangal Case

- **ANI filed multiple copyright strikes** against Mohak Mangal for using **short video clips** from ANI in **at least 10 YouTube videos**.
- Mangal **refuted the charges**, invoking **fair dealing** and accusing ANI of **extortion** and **abuse of copyright law**.
- ANI also filed a **legal case** citing:
 - **Trademark infringement**
 - **Defamation**
 - **Disparagement**
- The agency sought the **removal of specific videos and tweets** critical of its content.

Understanding Fair Dealing under Indian Law

What is Fair Dealing?

- Defined under **Section 52(1) of the Copyright Act, 1957**.
- Allows limited use of copyrighted material **without permission**, for purposes such as:
 - **Education**
 - **Research**
 - **Criticism**
 - **News reporting**
- Aims to **balance creators' rights with public interest and freedom of expression**.

Criteria for Determining Fair Use (Qualitative Test)

1. Purpose of Use:

- Use for **criticism, commentary, education, or journalism** is more likely to be fair.
- **Commercial or misleading** use generally disqualifies fair dealing.

2. Nature of the Work:

- Use of **published or factual content** is more acceptable than unpublished or highly creative content.

3. Amount Used:

- **Small, relevant portions** increase the chances of fair use.

- Even short clips can infringe if they **represent the core of the original work**.

4. Market Impact:

- If the reused content **harms the original's market value, diverts audience**, or acts as a **substitute**, it fails the fair use test.

Example:

In **TV Today vs NewsLaundry**, limited video clips used for critique were protected under fair use since they caused **no financial loss** and **did not replace the original broadcast**.

Other IP and Legal Instruments Involved

Trademark Disparagement

- Refers to **damaging the reputation** of a registered trademark.
- In this case, the **Delhi High Court** ordered Mangal to **remove certain remarks** that allegedly harmed **ANI's brand image**.

De Minimis Doctrine

- Based on the idea that **trivial or insignificant use** of copyrighted material may not attract legal action.
 - However, its application is **narrow and subject to court discretion**.
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Source : Indian Express

