**First Sale Doctrine:**

A rudimentary understanding of Copyright Law might make us think that reselling of books is illegal and infringes on the copyright

of the author or the publisher. Fortunately, this is not the case. The reselling of books is protected by the concept of

“First Sale Doctrine”. This doctrine finds its roots in American law and is part of their codified law. Indian law too

recognizes it in the Indian Copyright Act.

**Meaning**:

The First Sale Doctrine mandates that when an object containing a copyright is sold, the rights of the

copyright owner with regards to that object are extinguished. This allows the article to be resold, rented or to be disposed of in any manner by the buyer. This does not mean that all the rights (like the right to reproduce) are extinguished as those continue to

vest with the copyright owner. For example, if I write a book and sell it to you, you can sell that copy to another person.

However, the right to create more of these books remains with me.

**Why is this doctrine necessary?**

Because otherwise, every subsequent sale of an object which contains a copyright would require

negotiations with the copyright owner. The implications of this are far more serious than are apparent at first glance.

It would, of course, mean the death knell of the second-hand book and CD market. But that’s not all.

It would also mean that you could not sell your TV to someone without negotiating with the owner of the

copyright used in the software which runs in it. The same principle would apply to your car,

your portable music player, your mobile phone, and so on. With software being an intrinsic part of every “smart” device,

copyright has seeped into everyday life. The doctrine ensures that everyday transactions are spared this extra layer of negotiations.

Clearly, it has tremendous potential for good. However, it also has, well, potential for other things.

In the Wiley series of cases in the USA as well as in India, an unintended use of the

doctrine came to light. Wiley is a well-known publishing company which publishes books all across the world.

It produces low-cost editions of its books in developing countries. The difference between the costs across countries is significant.

It gave some enterprising individuals the idea that they could buy

those low-cost books in developing countries (like India and Thailand), ship them to the USA, and sell them there.

They could then undercut Wiley’s own books by a margin.

Wiley filed lawsuits both in the USA and India, claiming a right to prevent these books from being sold.

Interestingly, the Indian courts ruled in Wiley’s favor while the American courts have ruled against Wiley on the basis of the

First Sale Doctrine.

However, the doctrine is still recognized in Indian law, and if you are not commercially seeking to

benefit from copyrights owned by other people on a large scale without their permission, you don’t have to worry.

The doctrine still protects people like you and me who just want to sell used things to people who might make use of them.

So the next time you pass a market for old books, don’t worry about the legality of buying or selling there.

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