

PLAGIARISM, COPYRIGHT LAW AND THE MYTH OF ORIGINALITY

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Abstract:

The development of information and communication technology (ICT) brought *inter alia* a significant democratization of creativity. All that could be written could be published, all that could be published could be consumed and re-used. Such fluid creative environment is however prone to rather frivolous approach to attribution of the authors of the works used. All the digitalization fully realized the ubiquity of the non-tangible creative works. As a result the traditional distinction between the unprotected idea and protected expression in the work *de facto* diminished. The expression could be directly used as such as “building block” for another creative production without even acknowledging the original author. Such use however directly contravenes and infringes the copyright (author s rights) of the mythical *original* author. The first part of the presentation thus analyzes the legal status of such behavior and provides for an overview of the legal treatment of plagiarism. The analysis covers copyright (author s rights) in the current continental Law. Due to the relatively low amount of relevant case law in the Czech Republic, the significantly richer case law of Germany is used for comparison. However, the presentation strives to arrive at generally applicable conclusions. Therefore also the common law systems (UK, USA) are briefly examined for comparison. Simply put, this part tries to find and answer *whether and when is plagiarism illegal?* The exclusive and restrictive approach however is not undoubtedly accepted. The ideas of the intellectual commons open content stem and build upon the derivative character of the shared creative. Or as expressed aptly by Trent Reznor in the song Copy of a: “*I am just a copy of a copy of a copy; Everything I say has come before; Assembled into something into something into something*”. The second part of the presentation makes an attempt to identify and analyze these arguments for making certain types of plagiarism legal. Consequently it seeks to solve the question whether *certain type of plagiarism could be legal?* Finally, the last part of the presentation deals with possible approaches and their consequences how to answer this particular question namely the further strengthening of protection, introduction of formalities and standardization in the area of licensing and rights management.

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