



DOES THE ORIGINALITY REQUIREMENT OF COPYRIGHT STILL HAVE A PURPOSE?

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Abstract

Copyright is essential in preserving and promoting creation, but also to maintain public availability of works when applying intellectual property law. Accordingly, protecting copyright is essentially based on "originality" because it demonstrates some degree of inventiveness and is the result of independent innovation. Originality should reflect the author's intellectual effort in the work, rather than the work itself. The requirement of originality as a criterion for copyright eligibility is critical, however it ensures that works based on mechanical effort alone do not receive protection. Such a requirement has caused intense debate: does originality motivate innovation by rewarding new ideas, or it merely places restrictions that interfere with genuine implementations? Drawing on theoretical insights and precedents, intersected with non-legal studies as well as international comparative analysis this essay makes the point that however necessary uniqueness is for innovation incentives in our information society; a simple interpretation of IP Law may impair established cultural or educational practices and therefore indicates procedural reforms.

Keywords: Originality requirement, Copyright law, Intellectual property, Creativity and innovation, Fair use, fair dealing, Digital copyright, Transformative use, Comparative copyright, Creative Commons, Educational access, EU copyright law, U.S. copyright law, Remix culture



I. Introduction

Originating from international agreements like the Berne Convention, the idea of originality as a prerequisite for copyright protection is interpreted differently in different countries. According to the article 2 (3) of the Berne Convention Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work”.

Moreover, a precedent requiring a "little bit of creativity" for copyright eligibility was set by the Supreme Court of the United States in the case of *Feist Publications Inc. v. Rural Telephone Service Co. Inc.* This case made it clear that being original does not require invention but rather autonomous production devoid of plagiarism, distinguishing ideas or facts from expressions that are protected by copyright. This low bar is very broad, guaranteeing that copyright can be applied to even moderately innovative works. In the EU, though, originality is more demanding. This followed the decision in “*Infopaq International A/S v Danske Dagblades Forening*”, which held that originality must show “the author’s own intellectual creation.” That stricter interpretation of the standard was then confirmed that photographs could also qualify as works so long as they were, to at least some extent, creative. But the idea is original in that way not only does form come into play, but also some appearance of a human statement somewhere down there. In this context, originality forms the groundwork for copyright law: with it distinguishing between works that are protected (those made through independent intellectual effort) and those which do not enjoy such protection; its jurisdiction may vary by country.

1.1.Motivation for Creativity from the Standpoint of Originality

Pressure for originality, forces the creators to create something fresh, something new, and something different from the existing things. Which in turn is likely to decrease the chances of ideas repetition and promote innovation through culture. It is one of the concepts that are widely applicable in the economic environment today where there is need to develop a reverse knowledge like in the learning organizations, the reason having such kind of an education has no fixed cognitive



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reactions to conventional hierarchic organizations, such as the media, the pharmaceutical industry or the computer manufacturer.

Based on all above, one can only note that this domain is inherently creative, which without originality would come to a stall and die. Individual creativity in this order is manifested most obviously though creativity in design and manufacturing, which are very much appreciated by people as much as it is the case with appreciating pictures, including those painted in surreal manner. Originality is a prerequisite without which no such competition and interest can be present.

Moreover, proponents of the originality test make the argument that it is advantageous for creativity. By requiring a certain level of originality it enables the copyright law to thus enable the creators to benefit economically. This is very important especially in industries such as publishing, film, and music that may require financial assistance in restraining the overflow of creativity as the result of excessive copying which they provide through copyright laws. In the cases of *University of London Press Ltd v University Tutorial Press Ltd*, courts of UK showed that any smallest intellectual trade can protect the author's work which leads to continued effort in promoting originality.

Copyright security, in view of its purpose, promotes art and business. Copyright protection and security assure the least possible levels of trust for their staffs especially when it comes to those forms that are in a very aggressive investment category, such as motion pictures. As a result, copyright stimulates evolution by offering the proponents the necessary financial and legal protection needed to be able to come up with new ideas, thereby helping to create a vibrant cultural atmosphere. One motivator is to deliver all evolving creative effort, without any harm to the initial effort. Main struggle for creative individuals is their creative strategies that the law may violate or bypass.

II. Originality requirement as a restriction

Despite the value of originality, it might hinder certain legitimate uses in education, remix culture, and other forms of collaboration. This is because copyright limitations are frequently used to prevent illegal adaptations and reproductions, which may ultimately prevent access to cultural and educational



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materials. This difficulty is particularly obvious in the modern day, as activities including as remixing, sampling, and collaborative content creation have gained traction. This is always the case, especially in industries like music, where licensing requirements such as the need for clarity of the component that has been copied do not encourage musicians to share songs by copying bits and pieces. In the case of “Bridgeport Music Inc v. Dimension Films” , the Sixth Circuit Court of Appeals ruled that any sound, including bridge appearances but not less major portions, must be cleared. Compliance with the uniqueness principle to the extreme, such as a highly rigid application, can be costly, resulting in negative dynamics a number of constraints that impede artistic and cultural heterogeneity. The restrictiveness that stems from the idea of uniqueness also influences academic limits because access to learning resources is limited by copyright laws. True, copyright law allows for the conditional use of academic works for purposes such as teaching and research, but it still restricts the use of such materials when photocopied or distributed. Within the countries' statute rules, there is also a clause known as fair use in the United States and fair dealing in the United Kingdom, which allows for exceptions for certain purposes. However, these are occasionally described in a way that does not fully convey the implications of academic access. For example, Hargreaves says that absolutist interpretations of originality, which are common in most jurisdictions' copyright law, may impede educational access while encouraging more rights- based behaviors. This is because concepts of "originality" can have an impact on both the encouragement of creativity (and the preservation of copyrights) and educational access, and the distinctions are especially muddled in the context of distant education.

Moreover, in contemporary forms of work and living, when exploiting and integrating accessible inputs and converting them into output is commonplace, a restricted sense of what is original can be a barrier to advancement. These activities involve building on or changing the works of others; nevertheless, strict concepts of originality that allow no alteration at all destroy changes and impede the spread of knowledge. The digital age has increased the need for these concerns, as art forms have evolved beyond the limitations of traditional media and are increasingly integrated activities. In such cases, the novelty of its general



attention serves the opposite function: it eliminates wants to create a diversity of works while restricting access to them.

III. Comparison of originality perspective across jurisdictions

An investigation of the varying degrees of originality among countries reflects disparities in approaches to the management of creativity and its usage. In the United States, the Feist ruling's "modicum of creativity" approach applies to a wide range of works as long as they demonstrate a minimum level of creativity. In contrast, the European "intellectual creation" paradigm is significantly more demanding, emphasizing the author's personal input and confidence in pursuing new ideas. Infopaq establishes the European Court of Justice's criteria of originality and creativity, whereas Painer broadens the scope of protection beyond works that have historically been recognized as the threshold of originality. It is consequently feasible that a single, universal intent may be declared implementable. It's no surprise that, despite today's powerful technology, on which many features in music, television, and other forms of entertainment rely, applied studies avoid declaring a single objective standard of originality.

Such distinctions can be relevant in practice for both producers and users in cross-border environments, where copyright legislation is sometimes inconsistent. The rigorous requirements for originality adopted in the EU may diminish, if not eliminate, the protection of factual and practical works. This might benefit businesses such as scientific research, which would be less restricted by copyright. On the other hand, the US regulation, with its lower bar, allows for the protection of a far broader range of works, which could be more restrictive. These differences indicate that in the absence of uniform norms, there is always a risk of uncertainty for authors regarding the position and definition of copyright in different areas, making it very challenging to organize various global campaigns and interchange methods of working materials.

IV. Critical analysis

Following a thorough research, it appears that creativity is not easy. It can stimulate creative and innovative thinking while also impeding open access to cultural and educational possibilities. It is undeniable that various businesses have



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expanding economic channels thanks to the sustenance provided by copyrights. This may begin to stifle cultural evolution when sections in copyright rules that restrict public access or inhibit internal creativity are enforced in the interests of an author. As a result of these rigorous ownership norms, a type of modern culture is unable to express itself.

Potential legal amendments may result in avoiding the originality criteria, particularly in the fields of digital and educational applications. Increasing the limitations to exclusive rights - the fair use and fair dealing exceptions - while adapting it to a transformative use of the work may contribute to behind-the-scenes actions and revises the extent of adjective components and implementation. Furthermore, the Creative Commons licensing model offers a practical solution because it allows artists to freely grant fair use rights to the work while preserving a higher level of control over the item itself. In terms of how flexible the standard should be when it comes to originality, copyright law may still serve the changing practices in today's creativity in a way that does not undermine the authors' rights while also making the works available to those who want to use them.

Conclusion

The pursuit of uniqueness under copyright laws serves two purposes. On the one hand, it encourages people to pursue creative endeavors by ensuring that inventors are protected, allowing innovation to build cultural richness. However, the emphasis on unique dynamics may implicate and limit the ambition and practice of activities such as teaching, remixing, and collaboration. Thus, if the demand to expand persists and the previous policy's stages and outbursts are maintained, there may be a tendency to deviate from originality. A reason why, when combined with their enhanced fair use rights and accessible license options, the 'painting' may nevertheless have some damp patches.

In order to make copyright laws more effective in this age of technological development, the concept of originality has to be further developed. By increasing limitations such as fair use and fair dealing and at the same time fostering suitable licenses in the likes of Creative Commons, it can be reasonable to strike a balance between protection of rights of authors and the realization of essential social



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values. For one to appreciate these values, one needs to consider how originality is perceived within copyright. This perception enables the capacity of a certain work to be considered original even if it is not always possible for it to meet the standards set for originality. This is a perspective worth taking when asserting the views of the authorities above creators, since the times and technologies do not move backward.

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