

Independent Study Title : The Likely Way for the Interpretation of the Section 32
Paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994)
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ABSTRACT

Fair use is one of principles that limits the exclusive right of the copyright owner in order to allow the copyright users to access or to use copyrighted work within timeframe under the law protection without the permission or the payment committed to the copyright owner. This will keep the balance between the copyright owner's interest and the public interest. In Thailand, the general principle of fair use is legislated and demonstrated in section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994). The term used of this section is provided very ambiguous that makes the proof in court become more difficult when the user is accused of copyright infringement. Moreover, it leads to the variety of judicial discretions because the ambiguous term used in section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994) can cause the problem on the various interpretation that highly affect the copyright owner, the user and other in some ways. Therefore, it's necessary to do the research upon this particular matter

The purpose of the study is to generalize the legal problem of the principle of fair use. To accomplish the research's goal, the Copyright Act, the fair use guideline and the collections of judicial decision made upon copyright infringement case in Thailand and US. are study in depth in order to introduce the possible ways to amend section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994) and to set the guideline for the users in utilizing the copyrighted work as well as to benefit all concerns in making the judgment.

The study has shown that the general factor for adjudicating the fair use defense is indicated in section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994) is unclear. Because it does not issue enough detail comparing to section 107 of

the 1976 of US. Copyright Act. Besides, in Thailand, eventhough, it has the copyright user's guideline since the year B.E. 2542 (A.D. 1999) which restrict the use of the copyright materials to the extent that it is reasonable and fair, but it is still not common in nationwide like US. It causes the problem on the various interpretation. Therefore, it is unquestionable why the copyright owner and the copyrighr user are unable fully comprehend the general factor in section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994). In accordance with all mentioned reasons above, to amend the section 32 paragraph 1 of the Copyright Act B.E. 2537 (A.D. 1994), to To enhance knowledge and comprehension to the copyright user in applying the copyright legislation and the principle of fair use and to enact copyright user's guideline in the Copyright Act as Appendix or the supplementary document should be done at once.

