

Independent Study Title : Parody of Copyrighted Works
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ABSTRACT

The study aims to research on the parody of the copyrighted work which is one of the exceptions to and limitations on copyright in several leading countries where their intellectual property legislation advances. To understand and appreciate the nature and purpose of parody on copyrighted works, comparative study and analysis of copyright law and precedents in United States and Australia to the implement of Thai Copyright Act B.E. 2537 (A.D. 1994) are specifically focused.

Since there is no provision concerning the parody of the copyrighted work in Thailand, the general exceptions of fair use under Section 32 paragraph 1 is applied. The legislation of such exceptions, however, is considered too general and unsubtle which subsequently leads to uncertain law implementation.

Some lawyers are of their views that the fair use provision under section 32 paragraph 1 cannot be solely applied as general exceptions of infringement of copyright claimed by the person who make a parody on the copyrighted work. This is because section 32 paragraph 1 is deemed as a general framework which ought to be considered along with section 32 paragraph 2 in other sub-clauses. Therefore, it is hard to apply such section to the act of parody.

Furthermore, several lawyers are of opinions that in case the parody work cannot be applied to Section 32 paragraph 1, there will be no exceptions to be adapted to the use of parody work subject to the Copyright Act B.E.2537 (A.D.1994). In other case, the parody can be

deemed as criticism according to Section 32 paragraph 2 sub-clause (3), subject to the Copyright Act B.E.2537 (A.D.1994). However, the definition and characteristic in accordance with section 32 paragraph 2 sub-clause (3), parody and criticism are different. Hence, comparing parody to criticism in terms of definition and characteristics is not considered thoroughly accurate and the application of Section 32 (3) in parody scheme can cause the mistaken implementation of matters of fact as well as matters of law.

The solution to the aforementioned problem is that there should be a particular regulation involving the fair use provision for parody. To add provision concerning parody in section 32 paragraph 2 sub-clause (9) would be the best proposed option to deal with the insufficient existing provisions so that the mistaken implementation in the matters of law according to applying section 32 paragraph 1 to all cases will also be solved. More importantly, parody provision in proposed section (section 32 paragraph 2 sub-clause (9) can be applied together with section 32 paragraph. As a result, problems of legal implementation as well as differentiation between parody and criticism will be reached a solution

