自著作權法與學術倫理之規範析論 論文抄襲剽竊

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關鍵詞:原創性、合理使用、著作權、抄襲剽竊、學術倫理

Keywords: Originality, Fair Use, Copyright, Plagiarism, Academic Ethics

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摘 要

著作權保護,已從文化領域擴及商業領域,貿易國屢要求我國有效保護著作權,依現行著作權法第1條開宗明義的規定,除了要保護著作人的著作權益外,同時要調合社會公共利益及促進國家文化發展,此三大目的,居於同樣重要地位,不可偏廢。

學術上之剽竊、抄襲,係違反學術倫理之行為,與著作權侵害不同,著作權法之觀念與表達二元論下,著作權法僅保護「表達」,而不及於其所含之觀念,著作權法第10條之1規定:「依本法取得之著作權,其保護僅及於該著作之表達,而不及於其所表達之思想、程序、製程、系統、操作方法、概念、原理、發現。」

著作抄襲的事如果發生於大學院校,除有違反著作權法外,並受學術倫理 之規範。蓋因誠信是學術活動最重要的倫理守則,也是學術發展必備的前提要 件。著作抄襲對學術社群最大的傷害就是破壞誠信與公平性,如果不有效加以 制止,難免導致學術倫理蕩然無存,社會將無法追求進步。

A Discussion on Research Plagiarism from the Aspect of Copyright and Academic Ethics

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Abstract

The protection for copyright extends from culture to commercial field. The trading nations demand our country to protect copyright efficiently. Article 1 of Copyright Act mandates that: "This Act is specifically enacted for the purposes of protecting the rights and interests of authors with respect to their works, balancing different interests for the common good of society, and promoting the development of national culture."

Invasion of copyright is different from misconduct of copy, plagiarism in academic ethics. Due to Article 10-1 of Copyright Act, "Protection for copyright that has been obtained in accordance with this Act shall only extend to the expression of the work in question, and shall not extend to the work's underlying ideas, procedures, production processes, systems, methods of operation, concepts, principles, or discoveries."

As a matter of competition and reputation of those academic institutions, the performance of faculty members may be measured in terms of the generation and publication of scholarly works. Thus, there is the matter of misconduct rising in allegations concerning authorshipresearch results. We should clarify the roles and relations among the academic societies and faculty members, and establish the principles on determining who should be given authorship status to avoid conflict.