



CREATIVITY AND PLAGIARISM IN THE CREATIVE ECONOMY

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INTRODUCTION

Information society:

- ✓ new technological paradigm
- ✓ information for new pieces of knowledge

Creativity:

- ✓ moment of unique valuation
- ✓ stimulates new creative economy

Plagiarism:

- ✓ a complex phenomenon (inspiration X creative similarity)

COPYRIGHT LAW AND THE NOTION OF AUTHORSHIP

Copyright Law:

- ✓ rights of the author
- ✓ related rights

Characteristics:

- ✓ corpus mysticum vs corpus mechanicum

Copyright Law:

- ✓ moral nature and patrimonial nature

AUTHORSHIP

authorship:

- ✓ a historical construction collective in antiquity
- ✓ invention of the printing press by Gutenberg – room for individualism

copyright:

- ✓ not designed to initially protect the "genius-creator"

PLAGIARISM IN THE COPYRIGHT LAW

- ✓ Plagiarism has always been linked to an unlawful act
- ✓ Very few laws or international treaties hold the definition of plagiarism
- ✓ Article 6-bis of the Berne Convention
- ✓ Brazilian law follows the Federal Constitution (Law 9,610/98, articles 24 and 102 to 110)

THE LEGAL CONCEPT OF PLAGIARISM

- ✓ The concept of plagiarism is one of the most complex issues
- ✓ For José de Oliveira Ascensão plagiarism:
“is not slavish copying, it is more insidious because it seizes the creative essence of the work under a different cover”.
- ✓ It lacks legal definition and consensus as to the doctrine

OBJECT AND CHARACTERIZATION ELEMENTS OF PLAGIARISM

There is a very wide range of objects which may fall under plagiarism

Characterization:

- ✓ objective elements (similarity of shapes and identification of creative elements) and
- ✓ subjective elements (absence of authorization, omission of the real author's name and assuming the condition of authorship)

Essential requirements:

- ✓ the intention to usurp the authorship of someone else's work and
- ✓ concealment or disguise

THE CREATIVE ECONOMY IN AN INFORMATION SOCIETY

(i)

- ✓ The importance of culture and cultural diversity is even greater because their creative sectors are the heart of this new economy
- ✓ Intellectual capital as input for the cycles of creation, production, and distribution of creative goods and services
- ✓ In information society creativity has become the center of the social transformations, of the production and the consume of culture

THE CREATIVE ECONOMY IN AN INFORMATION SOCIETY

(ii)

Cultural diversity is essential for the development of the creative economy:

- ✓ (1) innovation in the use of intellectual capital for the creation of intangible goods
- ✓ (2) investment on people and on the infrastructure of a creative environment
- ✓ (3) use of new information technologies in the creative process and in the spread of knowledge

PLAGIARISM x CREATIVITY

(i)

We should now consider:

- ✓ to what extent there may be either a dialogue or a filter between creativity and plagiarism?
- ✓ are plagiarism and creativity definitely in a position of antagonism and confrontation?.

PLAGIARISM x CREATIVITY

(ii)

Creativity:

✓ The Law must protect creativity, understood as a factor of production and as the movement of the human intellect in order to create something new.

✓ According to Celso FURTADO

“the creative act is manifested by producing exceptional pieces of work that enrich the heritage of humanity, and that incorporate immediately to the daily life of certain communities.”

PLAGIARISM x CREATIVITY

(iii)

Plagiarism:

- ✓ Plagiarism does not present its own typing
- ✓ In order to spot copyright infringement by plagiarism in creative works of cultural projects, the concept of authorship must be revisited and some considerations ought to be made on the minimum contribution of originality that a creative piece of work must bear.

FINAL CONSIDERATIONS (i)

- ✓ Plagiarism is not restricted to the literary pieces of work, today it reaches a wide variety of media, such as visual arts, music, images, software, etc.

- ✓ The revolution promoted by Communication and Information Technology (CIT) is partly responsible for this change. Digitalization has made it easier to copy someone else's pieces of work.

FINAL CONSIDERATIONS (ii)

- ✓ The mere position of confrontation and antagonism does not solve the issues concerning the technological challenges to detect plagiarism
- ✓ Plagiarism in the cultural industry arises from the analysis of the minimum contribution that the creative piece of work considered plagiarized may bring to the state-of-the-art creative economy.



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Thank you



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