

The Social Responsibility of Copyright: It's Nature and Limitations According to the Theory of Constitution

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Abstract

Intellectual property rights apply to products of spiritual, intellectual work, which come to bear the rights of property value. As in many countries around the world, the development trend for Taiwan's Copyright Law has been to enlarge the scope of copyright protection as much as possible. Therefore, such actions as copying, renting out, publicly performing for profit, etc., on copyrighted materials will infringe on the creators' rights and be subject to punishment, as specified in the Copyright Law. However, as in the case of other property rights, copyright privileges must conform to "social obligation" to promote the public good. This paper argues that we need not regard the abridgement of the copyright as necessarily constituting the abridgement of the general property rights; with reference to the German Federal Constitutional Court's five key decisions in 1971 and the comments of two leading German constitutional scholars, Maunz and Badura, on this issue. This study also maintains that copyright review should avert polarization of the absolute guarantee and total sacrifice for the public good.

Keywords: copyright, social responsibility, intellectual property rights (IPR), eminent domain, compensation, reasonable usage

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