

Protection and Limitation of Right of Disclosure

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Abstract

In the Copyright Act there is no regulation about limitation on right of disclosure. However, I doubt that right of disclosure could not be limited. Let me use the case of Diaries of Ex-President Chang Kai-Shek and Chang Ching-Kuo as an example. In these diaries they wrote a lot of his opinions about historical incidents so that the dairies are copyright protected works and historical documents. It caused a lot of discussion about whether the publication of the diaries should be determined by their family members. This is not the only case. A lot of government documents may be in the same situation as the diary case. The second example is whether disclosure of thesis and dissertation depends on the willings of his/her author. Hence, it is important to discuss about limitation on right of disclosure. In the Draft Revision of Copyright Act in 2017 limitation on right of disclosure is added. According this regulation limitation depends on the willings of the author. In my opinion this regulation is not without question, because the public might have the interest in disclosure of some works. For example, the diaries of Ex-President Chang Kai-Shek and Chang Ching-Kuo might be important for the historian to have a different aspect of this period. The thesis and dissertation might deliever new information for the further research. In hence, I do not agree with the regulation of draft revision in which limitaiton depends on the willings of author. In regarding the necessity of limitation on right of disclosure, this article discusses legitimacy of limitation and its scope. At first this article focuses on the related regulation and implementation in prattice of Germany and then discusses whether and how it would be adopted in

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Taiwan. Besides, this article will also exam whether article 44 to article 65 of Copyright Act can limit right of disclosure.

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