

Whether the Cultural Differences between the East (Chinese) and the West (American) will  
affect the Audiences' Judgment of Film Plagiarism

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### **Introduction**

With the advent of the digital age, people have access to information more easily than ever before. At the same time, more plagiarism problems have emerged. Plagiarism is an important issue in both the media and academia. Although there are laws protecting authors' copyright, many people still have very weak copyright awareness. It is difficult to distinguish between copyright infringement, plagiarism, and appropriate reference. Therefore, it is important to study how the public perceives plagiarism. The definition of film plagiarism in today's society is also vague. Interestingly, the vast majority of international lawsuits are filed by major American studios, such as Hollywood and Disney, against studios in other countries. The cultural differences between the East and West seem to make the audience have different standards for movie plagiarism. Easterners seem to be more tolerant of cultural references. In the 21st century, the differences and contrasts between Chinese and American cultures are particularly striking. With the internationalization of the film industry, it is important to understand why there is a significant difference between people from the East and people from the West who have different views of the adaption and the plagiarism of film.

### **Film Plagiarism**

"Plagiarism is the 'wrongful appropriation and 'stealing and publication' of another author's 'language, thoughts, ideas, or expressions and the representation of them as one's own original work'" (Stepchyshyn, V., & Nelson, R. S., 2007). Copyright infringement is the author used the work with copyright protection without permission. However, copyright infringement and plagiarism are different concepts. Plagiarism is not a crime in itself. Plagiarism is punishable when it causes copyright infringement. According to the existing American laws, copyright infringement refers to the infringement of copyright owner's rights by using the content restricted

by copyright without permission. In contrast, plagiarism is an unearned increase in the author's reputation or academic credibility through false claims of originality. Regardless of whether a work is copyrighted or not, false claims of authorship often constitute plagiarism. Therefore, plagiarism is considered a moral offense of taking credit for someone else's ideas. If a plagiarist knowingly breaches the contract, it is a civil wrong.

Many filmmakers have spoofed, re-created, or saluted existing films with the same plotlines in the movie world. The distinction between plagiarism and adaptation is unclear in the film industry. Chung (2017) argues that when filmmakers copy without permission from the original film companies and related creators, copying the screenplay can be regarded as pure plagiarism rather than adaptation. Copying the screenplay means that even though the main characters have different names and social backgrounds, they have the same story, plot, and dialogue in the two movies. For film plagiarism, the plot is usually more important than the specific factors.

McGrath, Dreyfuss, Myers & Wang (2019) argue that copyright infringement claim occurs when the infringer: (1) has access to the creator's work and (2) the creator's work is "substantially similar" in expression to the infringer's work, which implies that the person knowingly took the ideas. Plagiarism is when a reader reads the original author's work and creates a similar work on elements such as mood, plot, theme, dialogue, context, rhythm, and sequence of events (the reader will face federal copyright infringement claims). However, the law developed the concept of "idea theft," also known as "breach of implied contract." "Idea theft" is when someone presents an idea or a specific script to a producer, which leads to an idea that leads to a business opportunity. Compared to plagiarism, "idea theft" may be unconscious. "Idea theft" is more about creativity than content. However, without proof of a contract or

document, the move will not be deemed plagiarism. Since "idea theft" has rare referential works and is difficult to be judged in law, "idea theft" will not be legally regarded as film plagiarism. As far as the current form of copyright is concerned, the one who first provides the declaration and authentication may have the most original authority. As a result, audiences may still believe work is plagiarism, even if not in the legal sense.

### **Cultural Difference Between East and West**

Behind many of the accusations of plagiarism lies a cultural difference between East and West. According to Sunder (2011), the comparison between Bollywood and Hollywood is a famous example in the film and television industry. Hollywood has filed a series of copyright lawsuits against Bollywood. According to Doshi (2003), Bollywood is the most significant film industry globally; Bollywood films are the most popular films in the world. Due to the lack of legal protection and support, many Indian film companies do not have formal contracts, leading to many problems from production to screening Indian films and plagiarism.

Despite the Indian film industry turmoil, Bollywood continues to grow rapidly, and many studios are committed to creating original stories. At the same time, many of the accusations against Bollywood films are not justified. Some of the allegations lack evidence, and they are even based on discrimination against Bollywood films. Due to a long history of negative coverage of Asian studios, many Americans believe that Asians are copycats who relentlessly copy movie plots and scenes from American blockbusters. The Bollywood film industry is heavily influenced by Eastern culture. One of the key elements of Eastern culture is learning, tolerance and learning. The culture inherent in the Asian film industry, which includes Bollywood's operational structure, development concept, and growth, proves the characteristics of Eastern culture and its advantages.

Bloch (2007) argues that different cultures and languages may lead to different attitudes toward plagiarism. Due to cultural differences, the definition of plagiarism in Eastern (Asian) culture is more moderate than in Western culture.

Alford (1995) argues that Chinese law and society are based on Confucian values, advocating imitation and sharing history. Because of this cultural background, China has a certain resistance to modern intellectual property law. Alford (1995) acknowledges that drawing upon the past work does not necessarily mean new works lack originality for many Chinese citizens. Instead, creating something new requires imitation and deep involvement with the past. Moreover, westerners are profit maximizers who create for monetary rewards, emphasizing copyright and avoiding associations with the past. Instead, those who value community shared meaning and intellectual creation for the benefit of the public are shaped as foreigners and pre-modernists. Asian societies have a long tradition of pluralism, criticism, commitment to freedom, reason, equality, and tolerance.

The same goes for copyright and so-called "Asian values." Stone (2008) points out that Chinese people's commitment to knowledge is influenced by Buddhist enlightenment philosophy, not just Confucian commitment to tradition and authority. Sunder (2011) argues that due to the mismatch of global art resources, the inherent creative incentives in the West may not be suitable for the development of contemporary art. The free flow of culture is not always fair. The global cultural exchange takes place against a backdrop of vast differences in power and knowledge that affect the way authors are recognized and rewarded. Global inequality and long-standing cultural prejudices may hinder free and fair cultural exchange. Now, there's a general view in copyright circles that all creativity is derivative.

Shei (2005) argues for Chinese learners, Chinese culture usually emphasizes learning imitation first rather than self-creation first. Chinese learners do not pay much attention to the attribution of cited texts or works, which is often seen as plagiarism in western culture. However, from the learner's point of view, imitating is one of the ways for Chinese learners to gain learning ability, which may lead to plagiarism problems. Teachers from China usually pay more attention to teaching than focusing on "discipline," such as using citations. Chinese society has some fundamental ideologies of imitation. Imitation is an important part of Chinese traditional learning culture. Imitation applies to many aspects of Chinese intellectual or artistic activity, which also includes the film.

Balve (2014) raises two questions: (1) whether the western definition of "plagiarism" applies to all cultures; (2) how profound and stable is the concept of individual intellectual property in western academia? Copyright laws in Japan and China are particularly different from those in Europe because they do not fully protect people as "creators" but as "producers" of useful products. Therefore, anyone who uses an idea to generate profits can claim this right. Although Japan was one of the first countries to incorporate individual intellectual property rights into its legal system, there is no clear definition of the individual rights of intellectual property owners.

Sunder (2011) argues that some developing countries do not have such strong influence and communication power as Western media. The cultural prejudices of people in developed countries and the neglect of art and culture in developing countries support creators with strong copyright notices. Many creators regarded as inherent in the West as "creative" and "primitive," and the creators who destroy cultural vitality and loan applications. These "authoritative

creators" conceal the underlying dynamic nature of innovation based on the flow of cross-cultural knowledge.

Worse, these stereotypes help mask the exploitation of the weak by the strong. For example, some Americans are so obsessed with Hollywood, Disney, and other prominent American studios that they ignore the possibility that they copy movies from other countries. Because of the cultural stereotypes, many Americans themselves do not look for or care about non-American movies that are plagiarized. By contrast, many American studios, which are better known around the world, expose and seek out other studios that plagiarize their work. When these prestigious studios make their information public, they will naturally receive more attention from the American people and people around the world. The poor in developing countries have always been innovative. Still, their novelty is often ignored because the poor are considered the guardians of ancient "traditional knowledge," while the developed countries are the home of modernization and innovation.

Developed countries have another stereotype of the developing world: that Asia is the home of imitators rather than innovators, pirates rather than authors. People's view of originality is not neutral. According to Peter (1991), Western creators are romanticized as "original," while Easterners, especially Asians, are best suited to imitation. In both cases, originality and piracy are explained by underlying cultural philosophy, history, and characteristics. Sunder (2011) argues that copyright laws that focus on producing more cultural goods are not enough. The essence of culture is to share meaning with others and promote mutual understanding. Based on these past studies, there are significant differences between Eastern and Western cultures, while the contrast between Chinese and American cultures is even more obvious. Therefore, this study investigates whether the cultural differences between China and the United States have an impact on the

plagiarism of film and television works. Relevant hypotheses are proposed in this study: Chinese citizens will display greater tolerance of film plagiarism than American citizens.

### **Methods Proposal**

Hypothesis: Chinese citizens will display greater tolerance of film plagiarism than American citizens.

For this study, the populations were American audiences and Chinese audiences. The study used a convenience sample. The researcher distributed emails to students through school email addresses and asked the researcher's social media friends to help and participate in the survey. The sample frame is undergraduate students at Trinity University. The specific criteria of the study were the participants must be people from China and the United States. They watch movies since the experiment focuses on the American and Chinese audiences' different reactions. Participants from other countries were not included in the study.

### **Measures**

The study's independent variable was nationality. Nationality was a legal qualification of a person to be a national or citizen of a particular country, which indicates a person's fixed legal connection with a specific country. The measure of the independent variable was created own. The measure had a single item, and the question was, "Which of the following best describes your \_\_primary nationality\_\_?" The level of the measurement was nominal. The three response categories were American, Chinese, and Other.

The study's dependent variable was tolerance of film plagiarism. Chung (2017) argues that film plagiarism is when filmmakers copy without permission from the original film companies and related creators, copying the screenplay. Tolerance of plagiarism is the audience's tolerability for the plot, style, and form between films. The measure of the dependent variable was created



own. The survey has explained some vocabularies of questions to make sure the participants can understand the meanings. There were four items were included, which were:

1. Filmmakers can learn from each.
2. It is understandable for a film to borrow another film's plotline. (Film's plotline is a connected series of occurrences that form the plot or part of the plot).
3. It is okay for a film to borrow another film's scene settings. (Scene settings are the place and time in which the action of a narrative takes place).
4. It is acceptable for a film to use another film's characters setup. (Characters set up is characters' basic situations which include introduced backgrounds and personalities).

The level of measurement was the interval. The response was measured in a 5-point Likert-type scale (1 = strongly disagree; 5 = strongly agree).

This study aimed to investigate the relationship between nationality (Chinese and American) and tolerance of film plagiarism. The study used a convenience sample of college students from a southwestern university. The sample included 89 participants and was divided into two groups for a comparative experiment.

The study announcement described the study objectives and direct participants in an online survey. Upon completing a consent form, participants were instructed to complete the rest of the questionnaire in response to their feelings about ideas that potentially support plagiarism. After completing the questionnaire, participants were linked to a separate survey. The university's institutional review board approved all procedures.

The research mainly focused on two groups distinguished by their nationality (Chinese or American). The participants were asked to respond to the ideas with potential plagiarism problems. The participants responded to these ideas by choosing an interval. (1 is strongly

disagree, and 5 is strongly agree). The final score was the mean score of the responses. A higher score means the participant has more tolerant views on plagiarism.

### **Results**

In the beginning, the research's Cronbach alpha was 0.692 with four items (dependent variables). After the review, the researcher deleted the first question, and the Cronbach alpha increased to 0.752. The increase of the Cronbach alpha also implied the first question, that can filmmaker learn from each other, was not related to the research topic or reliable as other dependent variables.

The hypothesis predicted that Chinese citizens would report greater tolerance of plagiarism than American citizens. An independent t-test was conducted to compare tolerance of plagiarism scores as reported by Chinese citizens and American citizens. Results did not detect a significant difference between tolerance of plagiarism scores as reported by American citizens ( $M=3.12$ ,  $SD=0.82$ ) and Chinese citizens ( $M=3.16$ ,  $SD=0.90$ );  $t(79)=-0.16$ ,  $p=0.87$ . Hence, the hypothesis was not supported.

### **Discussion**

Even the research could not support the hypothesis that Chinese citizens will display greater tolerance of film plagiarism than American citizens, it did not mean the research contradicted the past studies like Bloch (2007) argues Eastern culture (Asian) is more moderate than that in western culture, or Alford (1995) argues Chinese. Westerners have different values and cultural ideas.

Firstly, the research still showed the mean score of Chinese citizens was higher than American citizens; even it was not significant.

Moreover, there were some potential problems in this research. The research used a convenience survey method, which means the participants were already selected. The survey was in English, which means most participants who took the survey might already have learned or known English before. The Chinese participants who took the survey may already have certain living experiences in the English environment; their cultural ideas may already have been affected. The sample was not only random but also did not have a large sample size. The research only got 89 results in the end. Since a larger sample size means the distribution would become more normal, larger samples would give more accurate results than smaller samples. As a result, the reach could not assume a normal distribution or use the result to estimate the whole population.

Although questions already explained the different statements, participants might still have different opinions about the meaning of adaptation in the film. As Chonghwa (2016) argues, film plagiarism was still a vague definition to most audiences; even some official agencies could not give a precise definition. Participants might answer the questions in different standards and understandings.

Because the survey was in the form of the internet, participants might take the survey not seriously, which could affect the results.

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Footnotes

**COPYRIGHT PROBLEMS IN INDIA  
AFFECTING HOLLYWOOD  
AND "BOLLYWOOD"**

I. INTRODUCTION

Lena Mogre, a Mumbai fitness expert, considers herself a Hindi movie buff.<sup>1</sup> She and her nine-year-old son regularly patronize the Mumbai cinema halls, where crowds of Indians gather to catch the latest Hindi film.<sup>2</sup> Lately, however, Indians are less enthusiastic about making the trip to the nearest cinema.<sup>3</sup> For example, Lena and her son did not make the effort to see Salman Khan's movie, *Jab Pyar Kis Se Hota Hai*, in the Indian cinema hall they regularly frequent.<sup>4</sup> She reasoned, "[i]n a week or two, they'll show it on cable, yaar [sic]."<sup>5</sup>

India's film industry, which is enjoyed both nationally and internationally, produces the largest number of films in the world.<sup>6</sup> Today, however, this film industry faces its greatest

1. See K.M. Thomas & Anupama Chopra, *Cable Piracy: Raiders of the Big Screen*, INDIA TODAY, July 27, 1998, § Cinema, at 74 (introducing piracy problem facing Indian film industry), available at 1998 WL 2084306.  
2. *Id.* (indicating large number of Indians frequent movie theaters).  
3. *Id.* (observing decline in Indian moviegoers).  
4. *Id.* (describing most recent incident with release of new movie).  
5. *Id.* (providing reason for Indian public's lack of interest in frequenting movie theaters).  
6. See Aseem Chhabra, *Bollywood Confidential: Bollywood Films Sing and Dance Their Way to Center Stage*, BOSTON GLOBE, Mar. 10, 2003, at L13 (pointing to number of films produced in India). India produces more than 800 films annually, an average of more than two movies a day. *Id.* Hollywood, in contrast, only produced 260 films in 2001. *Id.* The 1990 Guinness Book of Records stated that Bollywood produced 948 films, more films than any other country in the world in that year. *Id.* See also *Film Industry: Conclusion*, India Infoline Sector Reports (noting size of Indian film industry), at <http://www.indiaonline.com/sectors/film07.html> (last modified Dec. 14, 2002); *Film Industry - From Box Office to Doldrums?*, NEWS-INDIA TIMES, v. 28, n. 35, Aug. 28, 1998, at 51 (stating Indian film industry largest in world), available at 1998 WL 11449468; N.K. Nair et al., *Study on Copyright Piracy in India*, Sponsored by Ministry of Human Resources Development Government of India (observing India's force in copyright field), at [http://www.education.nic.in/htmlweb/cr\\_piracy\\_study/ep08.htm](http://www.education.nic.in/htmlweb/cr_piracy_study/ep08.htm) (last visited Feb. 5, 2002). India is powerful in the copyright field because of the country's rich cultural heritage, which is enjoyed by the international community. Nair, *supra*. India provides the world film market with an excess of 600 films per year. *Id.* See also Sally D. Goll, *Indian TV Official Expects Court to Intervene in Copyright Debate*, ASIAN WALL ST. J., Apr. 14, 1995, at J7 (discussing international enjoyment of Indian films), available at 1995 WL-WSJA 2139322. India's film industry distributed films both nationally and internationally through broadcasters. *Id.* For example,

**The topography of 1960s Korean youth film: between  
plagiarism and adaptation**

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**ABSTRACT**

This paper compares and contrasts the prototypical Korean youth film *The Barefooted Youth* (*Menbal ui cheongchun*, Kim Ki-duk 1964) with the Japanese film, *Mad Spattered Parry* (*Darodanake no janyū*, Nakahira Kō 1963), thereby examining the process of plagiarism and adaptation in Korean youth film production. Youth film was a popular film genre during the 1960s Korean cinema renaissance, and it is no exaggeration to say that *The Barefooted Youth* was a cultural phenomenon, attracting enthusiastic support from young viewers of the day. However, the film is also accused of plagiarism whenever conversation turns to Korean imitation of Japanese culture. I track two phases of plagiarism and adaptation in the case of *The Barefooted Youth* at a time when Korean imports of Japanese culture were at their peak; I utilize the two films and their corresponding screenplays, as well as archival materials including the actual censorship document that dealt with the film. I find that the screenplays are very similar, but that genuine adaptation took place during the filming process. I focus on mise-en-scene, the theme song and, above all, the *shingo* style adopted for Korean viewers. This analysis offers a starting point for studies of comparative Korean-Japanese film history.

**KEYWORDS**

Comparative studies;  
Korean-Japanese cinema;  
youth film; plagiarism;  
adaptation; *shingo*

**The fine line between plagiarism and adaptation**

This paper examines the problematic discourse of Korean cinematic plagiarism and adaptation of contemporary Japanese film. Centered on Korean youth films of the mid to late-1960s, I look primarily at *The Barefooted Youth* (*Menbal ui cheongchun*, Kim Ki-duk 1964), a classic Korean youth film that will be familiar to general audiences, movie aficionados, and film historians alike.<sup>2</sup> However, the fame of the film is partially infamy, as it is also widely regarded as a prominent example of Korean plagiarism of Japanese film.<sup>3</sup>

*The Barefooted Youth* is charged with plagiarizing *Mad Spattered Parry* (*Darodanake no janyū*, Nakahira Kō 1963), a Japanese film by the director of the well-known *Taiyozoku* (Sun Tribe) film *Crazed Fruit* (*Kurutta kajitsu*, 1956). Yet no academic study has ever sought to compare and contrast the two texts in detail. While some research does exist on text (Lee 2003) and context (Kim 2003) in 1960s youth film, as well as comparative textual analysis of Korean and Japanese youth films more generally (Jung 2005), none of it looks at plagiarism in earnest. There is no research pertaining to the issue of which

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**WHAT PLAGIARISM WAS NOT:  
SOME PRELIMINARY OBSERVATIONS ON  
CLASSICAL CHINESE ATTITUDES TOWARD  
WHAT THE WEST CALLS INTELLECTUAL  
PROPERTY**

Our debt to tradition through reading and conversation is so massive, our protest or private addition so rare and insignificant,—and this commonly on the ground of other reading or hearing,—that, in a large sense, one would say there is no pure originality. All minds quote. Old and new make the warp and wool of every moment. There is no thread that is not a twist of these two strands. By necessity, by proclivity, and by delight, we all quote.

Ralph Waldo Emerson<sup>1</sup>

I. INTRODUCTION

China has never viewed intellectual property the way we do in the West.<sup>2</sup> While some Western scholars argue that comparable legal protections for intellectual property did not exist in China until the West attempted to introduce them at the turn of the twentieth century,<sup>3</sup> Chinese scholars continue to aver that China invented at least one kind of protection—copyright—over six hundred years earlier.<sup>4</sup> They also disagree upon the factors that led to the recognition of intellectual

1. RALPH WALDO EMERSON, *Quotation and Originality*, in WORKS OF RALPH WALDO EMERSON 867 (George R. Rouseley & Sam Hays).  
2. WILLIAM P. ALDRICH, TO STEAL A BOOK IS AN ELEGANT OFFENSE: INTELLECTUAL PROPERTY LAW IN CHINESE CIVILIZATION 2 (1995); Wu Shi, *Cultural Property in Intellectual Property: Is Stealing a Book an Elegant Offense?*, SICHUAN INT'L L. J. (CUM TUL.), 12 (2006); Peter K. Yu, *Piracy, Prejudice, and Perspective: An Attempt to Use Shakespeare in Reconfigure the U.S. China Intellectual Property Debate*, 10 ILL. INT'L L. J. 3 (2001); see William P. Aldrich, *Don't Stop Thinking About... Yesterday: Why They Won't Indemnify Counterpart to Intellectual Property Law in Imperial China*, 7 J. CHINESE L. 3 (1995); William P. Aldrich, *How Theory Does—and Does Not—Matter: American Approaches to Intellectual Property Law in East Asia*, 13 UCLA PAC. BASIN L.J. 8 (1994); see also William P. Aldrich, *Making the World Safe for What? Intellectual Property Rights, Human Rights and Foreign Economic Policy in the Post-World War II World*, 29 N.Y.U. INT'L L. & POL. 135 (1997).

3. ALFRED STEAL, *supra* note 2, at 2.  
4. See ZHENG CHENGJI, ZHIBICHANGHANGJIA: XINSHIJI DE RUXIAN YANRU ZHONGGUO INTELLECTUAL PROPERTY LAW: A NUMBER OF RESEARCH FOCAL POINTS AT THE BEGINNING OF THE NEW CENTURY 154-58 (2004).

**TOWARD A THEORY OF COPYRIGHT: THE  
METAMORPHOSES OF "AUTHORSHIP"**

PETER JASZI\*

INTRODUCTION

This Article is about "authorship," which is arguably the most central, and certainly the most resonant, of the foundational concepts associated with Anglo-American copyright doctrine. But discussions of copyright doctrine tend to assume the importance of "authorship" as a privileged category of human enterprise, rather than to examine where this notion arose or how it has influenced the law. In what follows, I try to show how copyright received a constructed idea of "authorship" from literary and artistic culture and to explore ways—sometimes peculiar and even perverse ways—in which this "authorship construct" has been mobilized in legal discourse.

The "author" has been the main character in a drama played out on the parallel stages of literary and legal culture. By the mid-seventeenth century, well before the English enacted the 1709 Statute of Anne,<sup>1</sup> writers began to assert claims to special status by designating themselves as "authors." During the eighteenth century, "authorship" became intimately associated with the Romantic movement in literature and art, expressing "an extreme assertion of the self and the value of individual experience . . . together with the sense of the infinite and the transcendental."<sup>2</sup> Until very recently, the position of the "author" as a category in literary criticism was:

central not only in theory but in practice: in the way single-figure studies dominate criticism; in the organization of texts in "complete editions"; in biographies; and above all, in the idea of style, of a marked writing characteristically the "expression" of a person's

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\* 1991 Professor of Law, Washington College of Law, The American University, Washington, D. C. An early version of this Article was delivered as a paper at the April 1990 meeting of the American Society for Eighteenth Century Studies. Work on revisions was supported by a generous summer research grant from the Washington College of Law. About Martin Woolman's screenplay scholarship, I would never have conceived of the project, were it not for James Hink's introduction generosity, I would not have pursued it; and without Eileen Mélinis's encouragement, I would never have finished. I thank them all—and I dedicate this to Eileen.

1. 1709, 4 Ann., ch. 21.  
2. THE OXFORD COMPANION TO ENGLISH LITERATURE 942 (M. Donohue 5th ed. 1965). The Companion also notes that "[t]he stylistic keynote of Romanticism is intensity, and its watershed is 'imagination.'" *Id.* at 945.

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## Mode of Cinematic Plagiarism and Adaptation: How Ishizaka Yojiro's Novels Launched Korean Youth Film\*

CHUNG Chonghwa

### Abstract

In this article, I probe questions surrounding plagiarism and adaptation in Korean film via analysis of the two films that launched the Korean youth film genre of the mid-1960s: *Kim Ki-duk's Gajeong gyosa (Private Tutor, 1963)* and *Kim Soo-yong's Cheongchun gyosal (Classroom of Youth, 1963)*. Private Tutor and Classroom of Youth were based on translations of two best-selling novels by Ishizaka Yojiro: the first *Hi no ataru sakamichi (A Slope in the Sun)* and the second *Atsu to watashi (That Guy and I)*. In Japan, the same two novels were turned into films in 1958 and 1961, respectively, by Nikkatsu Film Company: one as *A Slope in the Sun (1958)* by Tasaka Tomotaka and the other as *That Guy and I (1961)* by Nakahira Ko. In this article, I examine how Ishizaka's novels were adapted to become *Private Tutor* and *Classroom of Youth*, comparing them with the Nikkatsu films and relevant screenplays. In doing so, I reveal the system of plagiarism and adaptation at work in the Korean film scene of the early and mid-1960s.

**Keywords:** plagiarism, adaptation, imitation, youth film, Ishizaka Yojiro, *Private Tutor*, *Classroom of Youth*

\* This article is a modified and revised version of the draft presented at the 2016 Korean Film and Culture Workshop held at University of California, Berkeley (July 15, 2016).

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## Theoretical Inquiries in Law

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COPYRIGHT CULTURE, COPYRIGHT HISTORY

### Bollywood/Hollywood

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## TOWARD A THEORY OF COPYRIGHT: THE METAMORPHOSES OF "AUTHORSHIP"

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### INTRODUCTION

This Article is about "authorship," which is arguably the most central, and certainly the most resonant, of the foundational concepts associated with Anglo-American copyright doctrine. But discussions of copyright doctrine tend to assume the importance of "authorship" as a privileged category of human enterprise, rather than to examine where this notion arose or how it has influenced the law. In what follows, I try to show how copyright received a constructed idea of "authorship" from literary and artistic culture and to explore ways—sometimes peculiar and even perverse ways—in which this "authorship construct" has been mobilized in legal discourse.

The "author" has been the main character in a drama played out on the parallel stages of literary and legal culture. By the mid-seventeenth century, well before the English enacted the 1709 Statute of Anne<sup>1</sup>, writers began to assert claims to special status by designating themselves as "authors." During the eighteenth century, "authorship" became intimately associated with the Romantic movement in literature and art, expressing "an extreme assertion of the self and the value of individual experience... together with the sense of the infinite and the transcendental."<sup>2</sup> Until very recently, the position of the "author" as a category in literary criticism was:

central not only in theory but in practice: in the way single-figure studies dominate criticism; in the organization of texts in "complete editions"; in biographies; and above all, in the idea of style, of a marked writing characteristically the "expression" of a person's

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1. 1709, 8 Anne, ch. 21.

2. THE OXFORD COMPANION TO ENGLISH LITERATURE 842 (M. D. Dobble 3rd ed. 1985). The Companion also notes that "[t]he stylistic keynote of Romanticism is intensity, and its watchword is 'Imagination.'" *Id.* at 843.

455

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## PLAGIARISM ACROSS CULTURES: IS THERE A DIFFERENCE?

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### Abstract

Trying to define plagiarism has been one of the most controversial issues in L2 writing classes. Much of the discussion has been about the relationship between how plagiarism is viewed in China and in the West, in part because there is a long, shared literacy tradition between them. This paper argues that while there are critical differences between how plagiarism is viewed, the relationship is often more complex than is sometimes thought. A study of this relationship can help us understand not only the nature of plagiarism but also concepts of imitation, originality, and authorship, which underlie how plagiarism is viewed. While the focus of this paper is on a comparison of Chinese- and English-language viewpoints, this perspective can help both researchers develop a framework for examining plagiarism across cultures; and for teachers to develop a pedagogy for teaching about plagiarism that helps our students see its subtleties and contradictions involved in thinking about plagiarism in the same way they learn about any other aspect of literacy.

**Keywords:** plagiarism, intercultural rhetoric, contrastive rhetoric, authorship, rhetoric

### INTRODUCTION

The first part of my title "Plagiarism Across Cultures" raises a question that has been fiercely debated for many years in the field of L2 composition, particularly in an area of research called contrastive or intercultural rhetoric. This area of research has attempted to study how a student's first language and home culture may affect their second language writing, including their attitudes towards plagiarism (e.g. Bloch, 2001; Deckert, 1993; Fox, 1994; Matalene, 1985; Pennycook, 1996; Scollon, 1995). The question raised in the second part of my title – "Is There a Difference" is the more controversial part since it is this question about cultural difference that has raised emotional issues, charges and counter

## Plagiarism, Chinese Learners and Western Convention\*

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### Abstract

This article explores the issue of plagiarism from the perspective of Chinese students studying in a UK higher education institution. The Chinese learning culture generally emphasises a substantial period of imitation before creativity can be contemplated. In writing, this frequently translates into quoting other people's work as an integrated part of one's writing. Moreover, the Chinese culture does not emphasise attribution of cited text, which is often construed as plagiarism by the Western culture. From the learner's point of view, however, what is taken as plagiarism is often one of the routes Chinese learners use to achieve competency in writing. This article suggests judging suspicious cases of plagiarism on the ground of student effort spent in researching and writing, rather than on the formalities of citation. In terms of plagiarism administration, methods for avoiding plagiarism and detecting plagiarism are discussed, although it is recommended that teachers of Chinese learners be more pedagogically-minded, rather than concentrating on "discipline".

### 1. Introduction

According to the statistics of the Universities and Colleges Admissions Service, the applications from Chinese students to study in a UK university have "increased almost ten-fold" in the previous three years at the time of reporting (BBC News 2002). As more and more Chinese learners come to the UK to pursue higher education, various problems begin to surface as a result of cultural differences, one of which is the Chinese students' potentially different conception of plagiarism. This sometimes creates problems for British educationists, since the behavioural patterns relating to

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## Authorship, plagiarism and cooperation in higher education

Conclusions from experiences  
with Asian cultures and learning environments

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One leading question of this paper is, whether the postulate of true authorship can be generally applied to all learning and research environments in higher education. Experience shows at least that this postulate has no global reach. I am referring to the cultures and traditions in East Asia where other concepts of authorship and intellectual property rights exist. However, Western standards of ethical behaviour in science demand academic integrity everywhere in order to fight the violation of intellectual property and copy rights known as plagiarism and piracy. This generalized claim does not consider the diversity of epistemic traditions which can be also found in Western history. Moreover, it seems to ignore the collaborative background of knowledge construction. This paper aims to contribute to the ethical discussions with another than a moralistic view at the problem. In the first place it has to be asked how the idea of authorship and its protection by intellectual property laws became crucial. It will be necessary to focus on the historical background of intellectual property and how it gained importance in the West and in the East. Findings regarding differences in the adoption of this idea due to diversity in Asian culture and tradition have to be discussed. Experiences in the learning environment of East Asian higher education institutions will be confronted with the general demand for authentic authorship in academia. It has to be asked if the function of protected intellectual property opposes cooperative structures in higher education. The discussion on educational issues leads to the question what role protected authorship plays today in academic research.

Keywords: authorship, plagiarism, intellectual property rights, culture, originality, learning environment, cooperation, open access