



The Idea-Expression Dichotomy in Artistic Works: The Case Study in the United Kingdom

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Under the idea/expression dichotomy, the protection of copyright extends only to an artist's original expression and it does not protect the ideas that are being expressed. Lord Hoffmann's decision in *Designers Guild v Russel Williams (Textiles) Ltd* has clearly interpreted that the idea that is only in the head that has been unexpressed in a copyrightable form is not entitled to copyright. Nevertheless, a problem may arise when the idea and its expression are difficult to be separated and they are considered to have merged or called as *scenes a faire*. As a result, this merger doctrine has caused the expression not copyrightable. In the UK, this merger doctrine can be seen from the House of Lord's decision in *LB Plastics v Swish and Hanfstaengl v Baines*.

Keywords: Idea-Expression Dichotomy, Copyright, Design and Patent Act, 1988, Agreement on Trade-Related Aspects of Intellectual Rights, 1994, artistic works, *scenes a faire*

The issues of copyrights have always attracted hot social contention in the United Kingdom (hereinafter the UK).¹ There is no a clear distinction between an idea and its expression in the United Kingdom's copyright law.² As well as it is blurred in the statute or in case law.³ It can be seen from the judge decisions regarding copyright infringement are not coherent in interpreting whether or not the defendant has infringed copyright law due to taking another author work's idea. The principle stating that an idea could not be protected, but its expression is entitled to copyright is one of the fundamental copyrights not expressed in the Copyright, Design and Patent Act (hereinafter CDPA) 1988. Although, Section 3(2) of the CDPA concerning fixation of a work provides that literary, dramatic and musical work have to be recorded (or fixed) in a tangible form in order to get copyright protection and Agreement on Trade-Related Aspects of Intellectual Rights, 1994 which provides that copyright shall extend to expressions and not to ideas.⁴ These are not sufficient to form a similar interpretation of the Judge's perception in relation to making a distinction between ideas and its expression which enable to distinguish between the public and the private elements of a work.⁵

There is a problem that might arise that in case the idea and its expression are difficult to be separated

and they are considered to have merged or known as *scenes a faire*. The merger doctrine relates closely to the Idea-Expression Dichotomy. The merger doctrine defines that idea is inseparable with its expression resulting in it is not possible to be expressed differently to the same idea causing such expression has no copyright protection.⁶ The merger doctrine forms an exception to idea and it is an exception doctrine. Rather than look into the UK case laws regarding the ideas and its expression dichotomy in the UK copyright law comprehensively, Arnold has looked into the history of the UK's copyright law regime.⁶ In addition, Pocock has discussed the originality of copyright in Europe.⁷ Moreover, Pila has examined the categories definition of original works in the UK.⁶ Thus, it is important to discuss how the case laws in the UK applied in terms of solving the vagueness of the ideas and its expression dichotomy in the state's copyright law.

The Idea and Expression Dichotomy in Artistic Works

In *Donoghue v Allied Newspaper Ltd*, Farewell J. decides that it is clear that copyright does not exist in an idea or ideas.⁶ An individual might have a smart idea for a tale, an image, a play which is considered it is original by him. However, if he informs that idea to an author, an artist or a playwright producing a work from this idea's communication, the copyright of the

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work belongs to the artist, the author or the playwright who has clothed the idea in form and the person who owns the idea has no right in such work.⁶ It shows that there is a dichotomy between an idea and expression in the copyright law. Copyright might exist in an artistic work; for instance, in the work existing spatially and deemed on visual and tactile media which has a form of the relationship totality in space (either two or three dimensional) that is defined by the points and lines, either actual or notional constituting its shapes or configurations and the juxtaposition and colour arrangement, textures and solidity making up the work as a whole.⁶

It has been claimed that there are no bright lines distinguishing between the protected and the unprotected.⁸ The idea and expression dichotomy offer vague guidance in determining what is an idea as opposing to expression.⁹ In determining whether or not the copyright infringement has occurred, lawyers have to argue with two vague doctrines: the doctrines claiming that there is no a copyright infringement unless the whole or a substantial part of the work is copied and the doctrine regarding the idea-expression dichotomy.¹⁰

The principle that copyright does not protect an idea but only protects its expression.¹¹ It could be explained by imagining a piece of a written story.¹² The literal for artistic works are the precise usage of lines, textures and colours.¹³ The story-line originates in the author's idea; it is the particular words used which are the expression the author has adopted and everyone is allowed to write a story based on the same lines; however, he/she is prohibited to copy the particularly chosen words by the first author.⁶ Thus, the basic idea of a story is not protected by copyright but copyright only protects the words expressed in the story.¹⁴ Additionally, it is consistent with the definition provided that originality in the form of the expression of the author's own intellectual creation.¹⁴ It is clear that it requires the first author to fix the work before copyright exists in order to present a particular form of expression.¹⁵ The positive thing of giving protection only to the expression of ideas is would provide the opportunity to third parties to make whatever use they wish of the ideas contained in a copyrightable work.¹⁶ Therefore, the ideas or concepts behind a painting, a book, or a computer program taken or included them into their own works would be not an infringement.¹⁴ The dichotomy infers that copyright mostly protects the expression of an idea

that is created by an author rather than the ideas, such dichotomy would be misconceived.⁵

Criticism regarding such dichotomy is generally two-pronged. Firstly, it is sometimes postulated that the lack of certainty in statutory provisions concerning idea and its expression dichotomy in consecutive UK copyright statutes makes serious doubt on its legitimacy.⁵ It results from a literal interpretation of the Berne Convention, which does not state clearly in terms of excluding ideas from copyright protection, and various international instruments and some municipal laws definitely recognizing this dichotomy as an inseparable principle of copyright law generally dismiss it.¹⁷ Secondly, a stronger dispute developed by critics of the idea-expression dichotomy is that it is not an effective tool for overcoming copyright dispute.¹⁸ There is the central truth in this persuasive opinion and it is generally supported by the absence of the dichotomy and its ad hoc usage in most copyright infringement cases.¹⁸ Therefore, it could be deduced that despite the fact that courts adduce the dichotomy purposively, the task distinguishing ideas from expressions of ideas is likely to be a pointless approach unless the copyright law provisions regulating the unfair competition are considerable overtaken.¹⁸

In the Newspaper Licensing Agency case, Lord Hoffmann explained that:

"copyright infringement is sufficiently flexible to conclude the copying of ideas abstracted from a literary, dramatic, musical or artistic work, provided that their expression in the original work has involved sufficient of the relevant original skill and labor to attract copyright protection".¹⁸

It is clear that although such distinction seems easy in application, the dichotomy has caused unsatisfactory due to the fact that instead of copying the expressed words of a story.¹⁸ The detailed plot, scenes, incidents, characters, and sequence of events might be taken and the new story would have very few literal similarities.¹⁷ Thus, although it is worth accepting the rule of distinction between the idea and its expression, it has been argued that it would be very difficult to make a distinction between the idea and its expression.¹⁹ Copyright law had to consider protecting the non-literal parts of a work existing between the basic idea and the printed words forming the story, if not it would circumvent copyright law by altering the actual words used but

still remaining faithful to the detailed plot or structure of the story.¹⁹

In *LB Plastics v Swish*, the House of Lord's decision seems that an idea and its expression were inseparable because although the defendant did not copy the expression of the plaintiff's work which was entitled to copyright drawing, the defendant was held liable for infringing copyright law.²⁰ The House of Lords stated that although an idea is not entitled to copyright law, on the facts, the defendant had copied details of expression.¹⁹ Lord Wilberforce stated that a mere idea is not entitled to copyright; hence all the defendant had done to take from the appellants the idea of external latching, or the unhanding of components or any other idea embedded in their work, the appellants are not allowed to complain.²¹ In addition, in *Hanfstaengl v Baines*, Lord Watson stated that the artist's design and the idea that gives birth to the design, which is so new and exceptional, make it difficult for another artist to create some idea without trenching upon the design.² Thus, the aforementioned cases above has made clear that ideas and their expressions are inseparable or called as the merger doctrine resulting in an exception to idea and an exception to doctrine.

It is clear that the vague distinction between an idea and its expression has to be considered by the courts to determine the boundaries of copyright protection in order to anticipate the vacuum of law that could cause unfair competition.² Therefore, the doctrine that copyright does not protect an idea would not be absolute.²² In terms of the defendant copied the plaintiff's idea, the Court would play an important role in determining the infringement by assessing the sweat of the brow of the plaintiff's work that allegedly has been taken by the defendant.²³

In *Corelli v Gray*, the defendant created a sketch named 'The People's King' performed at various theatres.² The complainant had written a novel titled 'Temporal Power' and claimed that the defendant's work was copied from hers and infringed her copyright.²⁴ The first instance judge agreed with the plaintiff and granted an injunction.²⁵ The judge considered that the total amount of likenesses involving resemblances to the plot between their works forced the judge to conclude that the defendant had copied the plaintiff's work.¹⁹ In the Court of Appeal, Cozens-Hardy MR stated that a significant change had been made in the law by the Act of 1911.¹⁹ According to the former law, it is not

the copyright infringement if a person who wanted to dramatize a novel, unless there was evidence that he had to a material extent copied the actual words of the copyrighted work, hence, although it was limited to such circumstance, the person was given a free hand by the law to use any combination of incidents.¹⁹ It is inconsistent with Sections 1 to 8 of the CDPA providing that if a work does not fall within one of the eight categories stated in the CDPA (literary, dramatic, musical and artistic works, sound recordings, films, broadcasts and typographical arrangements of published editions) it cannot be protected, although it is a genuine expression.¹⁹ In addition, Article 5 of the 2001 Copyright Directive also provides that only the expression right of the author is deserved to be protected.¹⁹ Moreover, the copyrighting of literary works were regulated in Section 1 of the Copyright Act, 1911, and sub-Section 2 worded that "For the purposes of this Act, 'copyright' means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform...the work or any substantial part thereof in public;...and shall include the sole right...(c) in the case of a novel or other non-dramatic work...to convert it into a dramatic work...".²⁶ Such an entirely new or an enlarged right was deserved to be termed a new right.²⁷ The learned Judge rendered the fact presented by the plaintiff that it was impossible not to believe that the defendant had composed the sketch with the plaintiff's book in front of the defendant's eyes or in his memory.¹⁹

A clear and exhaustive judgment of the learned Judge was based on consideration of six incidents found both in the sketch and also in "Temporal Power", and the Judge stated that the incidents were not only found in both works but also there were remarkable similarities or identities of language between the two works.¹⁹ After analyzing the fact, the learned Judge had stated that there was nothing very interesting or original in both works, the similarities and coincidences in this case, when taken in combination, would be entire could not be understood because of only chance coincidence.¹⁹ Due to the fact that the defendant might have the plaintiff's book either under his eyes or in his mind when he was writing his sketch, there is no doubt that the defendant had not infringed the copyright because he had only taken from the book that did not amount to copyright.¹⁹ Nevertheless, the incidents used by the defendant appeared not mere one, two or three but a

combination of stock incidents that each incident had been taken from the plaintiff's book, "it would be narrowing the law beyond what was reasonable to say that the plaintiff was not entitled to be protected".¹⁹ His Lordship considered that despite the fact that a combination consisting of a series of incidents taken by the defendant in his sketch had not been found any one sentence of printed words used by the plaintiff's book, the plaintiff was entitled to be granted an injunction.¹⁹ Consequently, the new Act was not only to protect the printed words in a novel but also to protect the contained situation in it.¹⁹ His Lordship considered that it was sufficient to justify a decision that the case fell within Section 1 of the Act due to the fact that "in a sketch of six scenes there were five scenes which were also in the plaintiff's book and were not found in any other book".¹⁹

In the case of *Anacon Corporation Ltd v Environmental Research Technology Ltd*, Laddie J stated that in terms of a literary work, copyright does not only protect the words used, but also it might give protection to the themes and ideas incorporated into the work if they are adequately substantial.¹⁹ "What the copyright protects is the relevant work and skill embodied in the work".¹⁹ The CDPA 1998 prevents the work from being reproduced in any material form.²⁸ Thus, a two-dimensional artistic work might be infringed by reproducing it in three dimensions because the latter work is derived from using substantial skill and effort of the former author in creating the original work.²⁸

In *British Northrop Ltd v Texteam Blackburn Ltd*, Megarry J. concluded that original ideas are not the concern of the copyright law, but it concerns with their expression forms and in such expression must exist original ideas.²⁹ The expression should not be in original or novel form; however, it must be original with the author and not be copied from another work. Thus, a drawing, which is simply traced, from another drawing, is not a novel artistic work.

In *Catnic Components Ltd v Hill & Smith Ltd*, Buckley L.J. decided that in artistic work, copyright law protects the skill and labour devoted to producing it; hence, not the skill and labour devoted to making some idea or invention conveyed by the artistic work.³⁰ Buckley L.J. stressed that copyright protection in artistic work is not for the work that lays a novel or new idea which is representing a commonplace object or theme.²⁸ It can be understood that there is a dichotomy of idea and expression. Despite the fact

that the idea is novel and it is transformed into a certain form of artistic work, the work is not going to be protected as it still represents a commonplace objects or theme in its artistic work form.

It would be difficult to determine the distinction between protected expression and unprotected ideas, but it is an essential important doctrine.²⁸ Thus, in terms of *literary and dramatic works*, it could be deduced that copyright law does not only protect the literal aspect of the work, but also might protect the nonliteral elements of a novel or play such as the plot, the storyline, and the incidents and themes.³¹ Nevertheless, the United Kingdom has not really addressed the issue; it is less likely that the United Kingdom's copyright law will protect characters of a novel or play.³² Moreover, it would be more difficult to deal with the case of the computer programs where protection has been wider, both in the United Kingdom and the United States of America, to non-literal elements of programs, for example, their structure, menu systems, interfaces, screen displays, and such like.³²

However, in *Designer Guild Ltd v Russell Williams (Textiles) Ltd*, the Court had different points of view on this issue. The claimant had created its fabric design called *Ixia*, in 1994 and made it available in shops from September 1995.³¹ The design was expressed with the general feature, made up of roughly drawn pink and yellow stripes with flowers with the different directions that have no particular order across them. One year after selling it in shops, the claimant found that the defendant was trading the similar design to the claimant's design called *Marguerite*.³⁵ The defendant stated that although there were similarities between both fabric designs, there were also several differences between the two designs because the defendant had developed it from her own *Cherry Blossom* design.³³ The Court of Appeal held that based on the similarities between two designs, the defendant had copied either the idea embodied or the same techniques producing a similar visual effect in the plaintiff's work.³³ Regarding whether or not a substantial part had been copied, the Court of Appeal held that "the combination of the flowers and the stripes, the way in which they related to each other, the way in which they were painted and the way in which there was a resist effect which made the overall combination amount to the copying of the substantial part".³³ The defendant before the Court of Appeal admitted that he might have had copied the plaintiff's

work but he neither copied the whole nor a substantial part of the work, and the defendant also argued that according to the law the similarities appearing between the works were not adequate to claim that the defendant had taken the substantial part of the plaintiff's work.³⁴ Morrit L.J. agreed with the defendant argument by stating that after comparing the two designs, it seemed that there was no involvement of the copying of a substantial part of the plaintiff's design in the defendant's design, "they just do not look sufficiently similar".³⁴

On the other hand, the House of Lords allowed the defendant to appeal the decision of the Court of Appeal and held that the defendant did not infringe the copyright in the plaintiff's artistic work.³⁴ The House of Lords stated that the principle should be considered carefully due to the fact that the idea-expression dichotomy could be more than a work that has been expressed in a fixed form.³⁵ Lord Hoffmann made two distinction propositions regarding such principle; firstly, certain ideas expressed by a copyright work might not be protected because they are not related to the literary, dramatic, or musical work.³⁴ Lord Hoffmann said that it would be a matter in terms of a literary work that described a system or invention.²⁴ Albeit the work would get protection, copyright would not grant the author to claim protection for their system or invention mentioned.²⁴ Lord Hoffman considered that the sole purpose of the idea and its expression is not to determine copyright fixation when copyright subsistence is established, but a court must contemplate whether idea or its expression were copied from the infringed work.¹⁷ In *Kleeneze Ltd v DRG*, Lord Hoffmann explained that Whitford J held that there had been no copyright infringement in the "claimant's drawing of a letterbox draught-excluder, where the defendant had merely taken the concept of the draught-excluder".¹⁷ Secondly, even though such ideas are derived from literary, dramatic, musical or artistic nature, they might not get protection due to the fact that such ideas lack originality or so commonplace which are not able to form a substantial part of the work.³⁶ Regarding the second proposition, Lord Hoffmann exemplified *Kenrick v Lawrencecase*.¹⁷ The case described that copyright existed in the drawing of a hand; however, the granted copyright would prevent the copyright owner from objecting to other people to draw hands, if it happens, all that was reproduced was the idea.²⁴ In addition, Lord Hoffmann explained that "at that level

of abstraction, the idea, though expressed in the design, would not have represented sufficient of the author's skill and labor as to attract copyright protection".¹⁷

Therefore, in *Designer Guild Ltd v Russel William (Textiles)*, Lord Hoffmann stated that the idea to combine stripes with flowers in a fabric design fell within the second proposition.¹⁷ Such interpretation directly does not make a distinction between idea/expression with originality. The mere indicator used is commonplace interpreted as the minimum level of requirement to constitute the work at all, or protected level of skill, labor, and judgment. Lord Hoffmann's explanation regarding the rule that ideas are not entitled to be protected is useful in recognising the uncertainty of the concept of the idea causing misinterpretation of the nature and scope of the exclusion despite the fact that the exclusion is a fairly large degree narrow one, and does not include all that might be interpreted as an idea.¹⁷ On the other hand, the approach used by Lord Hoffmann to fix the rule that there would be no an infringement of copyright in terms of copying the ideas causing the criticism lacking clarity is incomplete.²⁴ The approach collapsing the rule on the non-protection of ideas into a rule on originality, rather than acknowledging its basis in public policy might produce an unduly limited account of the exception.³⁷ Lord Hoffmann views that each element of an artistic work with the exemption it got there by accident or compulsion is the expression of the idea of the author.³⁷ Excluding the ideas from being protected by copyright law would be an important judicial approach that is adduced to reconcile the different interests of copyright holders with those of users, creators, and the public more generally.²² Consequently, such interests would not prevent the public interest from making new works dealing with the same topic, or subject matter, being undermine because of using free functional ideas (other than those protected by design), using the same technique of production (it is limited by patent law), expressing the expression, disseminating political and economic ideas and historical facts.³⁷ Furthermore, the principle of non-protection of ideas would avoid monopoly practices blocking culture, communication, innovation, creativity, and expression.³⁷ On the other hand, such uncertain parameters of transformative uses and inconsistent application of the idea/expression dichotomy would hesitate users to exploit or transform the great corpus of cultural

ideas.³⁷ This phenomenon might have violated the knowledge principle, which optimizing the access to knowledge resources aiming at learning and education in order to create new work.³⁸ It would have been better if the authors granted derivative work rights which is not only protecting their expressions from reproducing but also preventing others from creating the same idea in the same ways.³⁹

In *Designer Guild Ltd v Russel William (Textiles)*, Lord Millet stated that the Court of Appeal “misunderstood the function of a visual comparison of the two works in a case concerned with artistic copyright and the stage at which such a comparison should be undertaken”.⁴⁰ Lord Millett used the second proposition by separating the resemblances between the issue of copying and substantiality, dismissing those consisting of commonplace, unoriginal or general ideas.⁴¹ Due to the fact that there is no certainty regarding originality, substantial part, and idea/expression, it is important to make interpretation the hidden functions and justifications for copyright because they influence the court’s decision, hence, it could be no surprise, the unpredictable rule could allow the potential variety of influences.²⁴ In addition, in terms of in an era affected by the growth of international rule-setting in the meaning of the rights of the copyright owners, the non-protection ideas would be one of the few options allowing the courts to take account of the individual circumstances and merits of particular conclusions.⁴² It would be better to accept the interpretation presented by Lord Hoffmann in terms of restricting the idea/expression dichotomy in order to decide that the similarities derived from commonplace could not cause an allegation of copying, rather than to challenge whether copyright exists at all.⁴²

The most important issue of the scope of copyright protection regarding the ideas-expression dichotomy in the *Designer Guild* case raised by Lord Hoffmann is that it seems that Lord Hoffmann has applied the idea/expression dichotomy as an aspect of the considerable inquiry.²⁴ He believed that “the more abstract and simple the copied idea, the less likely it is to constitute a substantial part”.⁴³ According to Lord Hoffmann’s suggestion, it could be taken of shorthand for two quite different and important claims.⁴³ Firstly, it would be possible to determine any aspect of a work alternatively as an idea or as expression, however, not everything that could be classified as an idea because of the purposes of the idea-expression

dichotomy.⁴³ According to Lord Hailsham of St Marylebone stated that “it all depends upon what you mean by ideas”.⁴³ Ideas that are of adequate particularity that might be considered as to be the work; the contribution; sometimes considered not as ideas but as expression. As Lord Hoffmann suggests that “copyright law protects foxes better than hedgehogs”.⁴³ It is clear that ideas that derived from some reasonable aspects of work would be considered as an expression for the purposes of the dichotomy.⁴³ Secondly, in terms of determining whether something categorized as an idea subjected to expression entitled to protection and whether particular copying should amount to substantial are depended on the extent to which the author’s control over his or her work to obtain the underlying purposes of copyright.⁴³ Lord Scott’s consideration is also based on a similar approach that the idea/expression dichotomy is confusing because copyright law only gives protection for a substantial part of the expression of a work.⁴³ If the dichotomy aims at separating between an idea and its expression, it results in an idea that would never be a part of the substantial part that derived from that expression.⁴³ Therefore, “it is not immediately apparent what it means to treat the ideas-expression dichotomy as a part of the substantial inquiry”.⁴³

However, Lord Hoffmann’s interpretation is not able to clarify how to determine whether the originality level of a work’s feature is adequate to overcome the obstacle of the skill, labor, and judgment.⁴³ It has been contended that “the uncertainty that underlies basic copyright principles such as originality, fixation and idea/expression dichotomy is dangerous to the functioning of the law; leaving those principles lose in an identity crisis with little meaning at all”.²⁴ Thus, the reasons for the decision held by the House of Lords in *Designers’ Guild* are unsatisfactory concerning the application of the idea/expression dichotomy, and the metaphor of the foxes and hedgehogs has inadequate process and guidance value.

In *Designer Guild Ltd v Russel William (Textiles)*, the interpretation of the principle would have been narrowed by deciding that copyright law refuses to protect ideas. In *Navataire v Easyjet*, the source code copyright owner claimed that a former licensee who has never seen the source code attempted to emulate the functional behavior of the program.⁴³ Pumfrey J held that there was no copyright infringement, by

stating that the "functional behavior of a program was not similar to the plot of a novel (which might obtain protection).⁴² In addition, "that policy weighed against protecting the business logic of a program through copyright. In *Nova Production Ltd v Bell Fruit Games*, Kiitchin J held that resemblances between video games perhaps were caused by general ideas lacking skill and effort conducted by the programmer.⁴⁴ Regarding this issue, Jacob LJ concluded that some aspects inspiring the defendant's game are just too commonplace amounting to a substantial part of the claimant's game.⁴² In *Baigent v Random House* the claimants Michael Baigent and Richard Leigh were two of three authors of a best selling book titled "*The Holy Blood and The Holy Grail (HBHG)*", they alleged that the defendant-Dan Brown had infringed the copyright of their work by publishing *The Da Vinci Code*.⁴⁵ The defendant was alleged that he had copied the Central Theme of HBHG and reproduced a substantial part of HBHG.⁴⁶ Peter Smith J held that the defendant had used HBHG (in the same way as other books) but the facts and ideas taken were at such level of abstraction that could be considered as copyright infringement.⁴⁷ In the judgment, the judge noticed that the line between idea and expression is to facilitate a fair balance of the conflict between protecting the right of the author and allowing literary development.⁴² The decision was affirmed on appeal; the Court of Appeal dismissed the claimant's appeal and agreed with the trial judge. It results from the allegation of a substantial part of HBHG taken by the defendant was ideas rather than 'the form or manner in which ideas were expressed'.⁴⁸ Mummery LJ stated that the literary copyright does not allow the copyright owner to monopolize historical research or knowledge and the case that describes the defendant's inspiration is obtained from the claimant's copyright work but considered as not to have taken a substantial part in the World Cup Willie case.⁴⁸ The claimant created the World Cup logo from 1966 comprising a lion in an England strip kicking a football, and a modernized version of a lion kicking football for England was created by the defendant.⁴² Despite the fact that the defendant had copied the idea of the claimant's copyrighted work, the High Court concluded that the defendant had only reproduced the ideas and not a substantial part of the original.

Conclusion

In short, it is clear that under the idea/expression dichotomy, copyright only protects an artist's original

expression and it does not protect the ideas that are being expressed which can be found in one of the leading cases in relation to the idea-expression dichotomy in artistic works in the UK that is *Designer Guild Ltd v Russel William (Textiles)*. However, it seems that there is uncertainty of the idea and expression dichotomy in the UK copyright law and different points of view of the Court on the issue regarding copyright dispute provided by the court resulting in indefinite precedent enabling to bind the court to apply the same parameters concerning the copyright dispute because of the merger doctrine exists in artistic works as decided in *LB Plastics v Swishand Hanfstaengl v Baines*. Moreover, what has been suggested by Lord Hoffmann that "the more abstract and simple the copied idea, the less likely it constitutes a substantial part", would become the good approach to the idea-expression dichotomy issue despite the fact that some argue that such approach would be not effective to deal with the problem.

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