

# Treatment of Parody

Main Topic

Sherry YIP/CITB/HKSARG  
04/12/2013 10:08

Subject: S2167\_李英洛  
Category:

Originator	Reviewers	Review Options
Sherry YIP/CITB/HKSARG		Type of review: One reviewer at a time Time Limit Options: No time limit for each review Notify originator after: final reviewer

Browser window showing a forum post. The address bar contains <https://www.foru...> and the page title is "在版權制度下該如...". The menu bar includes 檔案(F), 編輯(E), 檢視(V), 我的最愛(A), 工具(T), and 說明(H). The post is dated 2013-11-15, 17:42 and is post #18.

李英洛  
回應: 2

I read the comments written on this forum and I concur with what Mr. Bradley Mark John wrote on July 24<sup>th</sup>, 2013. I believe the current copyright ordinance, along with the draft copy of "Code of Practice for Service Providers" are sufficient enough to strike a balance between allowing for "derivative creations", of which parody is one of its many forms and the protection of copyright owners' interests. So it is not necessary to do any changes.

As Mr. Bradly had suggested, if any reform should be made, it should be made with the consideration of not limiting, but exempting these "derivative creations". One important thing to consider which no one has mentioned, is whether these new creations have enough significant differences to create "points of departure" from the original, either in context, in syntax or in form so that essentially they become new creations in their own rights and these new creations are not competing in the same arena, on the same scale as the original and that they do not cause significant economic damages to the original copyright owners.

Again, there is no reason short of a political one to focus on "parody" in this new proposed ordinance reform because presently the law is sufficient enough to protect. If not careful, the proposed option two, though innocuous as it seems, can potentially become a wolf in sheep skin trap designed to tighten the noose. All you have to do is narrowly defined what parody is and in the same stroke, bring in criminal penalties. If that is the case, it will easily become an instrument for political prosecution. And I don't think anyone wants to see that.

On November 2<sup>nd</sup>, there was a forum in Wanchai on the topic. – (Title of the forum: "在版權制度下處理戲仿諮詢" 研討會) - Mr. Ricky Fung of the International Federation of the Phonographic Industry said he is working on the 5<sup>th</sup> option, which will have some rules for exemption and they will be based on the US definition of Fair Use. I like the idea and I so look forward to see how that can accommodate what I call "derivative creations" of which parody is one. These creations are usually not with the purpose or the means to do adversely economic impact on the copyright owners, but in most cases, they tend to be strands of creation, some with greater and some with less points of departure, reflecting on our history and our culture.