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Articles

Shall We Dance? When Law and Economics Meets Copyright *

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Abstract

In the late 1960s and early 1970s, Law and Economics emerged as a wholly new field of legal research and study. Economics provides not only a behavioral theory to predict how people respond to changes in laws, but also a useful normative standard for evaluating law and policy. In the eyes of economists, laws are instruments for achieving important social goals, namely, resources allocative efficiency. In the area of Copyright Law, economic analysis has taken an important role in examining the conflict of interests between copyright owners and public. Scholars and experts of law and economics have been working to find out the most efficient way to allocate the scarce resource and to maximize social welfare – in copyright law, is the Constructional object of promoting the progress of science and useful art. In this article, the author will first introduce the movement of Law and Economic Analysis, and illustrate the development and the central

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contentions of different schools. The author will also present a briefly historical background of the U.S. Copyright Act, in which, the economic factors and the growth of technologies pour a heavy influence into the development of that Act. Next, the author will describe the various approaches employed by the Law and Economic analysis, through first defining some basic concepts of economics analysis, and then try to apply Law and Economic analysis to the U.S. copyright law, particularly in the copyright infringement cases which involved the application of Fair Use Doctrine, in order to survey the advantages and limits of the adoption of Law and Economic analysis, under the ultimate object of “Promoting the Science and Useful Art.”

Keywords: Copyright, Law and Economics, Fair Use Doctrine