

論電子資料庫著作權之保護—— 兼評臺灣臺北地方法院 96 年度訴字第 146 號判決

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摘 要

電子資料庫之建置需要投資大量之人力與財力，且具有容易被剽竊之特性，而著作權法以編輯著作保護之要件，須就資料之選擇與編輯具

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有原創性，惟判斷編輯著作之原創性及侵害有其困難度，因此引發另賦予電子資料庫的內容特別資料權保護的探討。本文解析美國判例法對資料庫之著作權保護，與侵害資料庫之認定原則，並評論臺灣臺北地方法院 96 年度訴字第 146 號判決，且主張就著作權角度而言，以原創性保護電子資料庫，再輔以建置者藉由「權利管理電子資訊」與「防盜拷措施」二種措施之運用，至於無法符合著作權法保護要件之電子資料庫，仍得依據其他相關法律的交互運用保護之，期使電子資料庫建置者之利益與社會公益達到平衡。

關鍵字：電子資料庫、原創性、編輯著作、權利管理電子資訊、防盜拷措施

Copyright Protection of Electronic Databases —With Comments on the Judgment of No. 146 from Taipei District Court in 2007

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Abstract

While under U.S. law, an electronic database acquires copyright protection if it features an original selection, coordination, or arrangement, the European Union has aggressively created a new, sui generis form of intellectual property protection for the contents of the database itself. Taiwan Copyright Law also provides that originality is the threshold to copyright protection for electronic databases. However, there are two critical questions hard to be answered to copyright protection for electronic databases. First, what constitutes creativity in a selection or arrangement? Second, if a selection or arrangement is original, what sort of copying does it prevent?

Accordingly, this Article will explore some specific problems of copyright protection for electronic databases in light of Feist, Key Publishing, and the judgment of No. 146 from Taipei District Court in 2007. In order to understand the requirements for protection, it reviews the originality requirement imposed on compilations by the Supreme Court under Feist and the "substantial similarity" to establish infringement in Key Publishing. It has been observed that questions about the copyrightability of compilations and other low authorship fact works, and about the scope of protection, have troubled Taipei District

Court in the judgment. It acknowledges that the application of those requirements to an electronic database is difficult, however, with provisions of the Integrity of copyright management information and the Anti-circumvention, the copyright protection for electronic databases should be sufficient.

Key words : Electronic Databases 、 Originality 、 Copyrightability of
Compilations 、 Copyright Management Information 、
Anti-piracy Measures