



IP ITeaser 078:

It has arguably never been easier for authors to simply copy large sections of text verbatim off the Internet, with Wikipedia being a particularly tempting source. The Shadow Chancellor has recently had to apologise for failing to properly reference sources in her new book, but she can perhaps take solace in the fact that she is far from the first (or last) politician to have been accused of plagiarism. Readers with long memories may recall that President Biden's first presidential campaign – all the way back in 1988 – collapsed when he was accused of copying passages of a speech by Neil Kinnock (then-leader of the Labour Party).

Such accusations would have baffled the Romans, whose view of academic conduct probably differed considerably from ours. Most historical texts composed in antiquity were not works of original scholarship as we would understand it, but summaries and excerpts of works by earlier authors. It was far from uncommon for the composers of these epitomes to lift entire passages of text by earlier authors (without attribution) – a practice that would scandalise modern academia, but has also facilitated the survival of ancient texts that have not been passed down to us in their original form. Of course, there is no guarantee that the author of the epitome has the skill, knowledge or expertise of the original author, resulting in a summary that can sometimes be awkward at best and near-incomprehensible at worst.

Today, an academic who publishes a book which is largely composed of excerpts from existing scholarship is likely to run afoul of both their professional obligations and copyright law. In the UK, section 16 of the Copyright, Designs and Patent Act 1988 ("CDPA 1988") prohibits copying the whole of the work "or any substantial part of it". It is clear that a reworking of the original text can still constitute an infringement as long as substantial use has been made of the skill and labour that went into the former.

Whilst there is a statutory defence for research for a non-commercial purpose under section

29 CDPA 1988, fair dealing requires the use of copyright material to be accompanied by a “sufficient acknowledgment” – hence the importance of ensuring that material taken from other texts is appropriately referenced and/or footnoted. A fair dealing provision also exists for quotations for purposes such as criticism or review under section 30 CDPA 1988, provided that the quotation is accompanied by a sufficient acknowledgement and does not go beyond what is required for its specific purpose. Where an academic is not providing his own commentary or analysis of a pre-existing work but simply copying its text, this is unlikely to benefit from the fair dealing exception.