

# 談繪畫創作「轉借」形式所負擔的法律責任

## Discussing the legal responsibilities of “appropriation” form applied on paintings

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### 摘要

對繪畫創作者而言，看到一幅畫有感而發，有所觸動時，會想要再畫一幅類似的畫作，這是自然而然的事，但如果第二幅畫與第一幅原畫太過相似，卻又容易引起爭議，因此釐清「轉借」的法律責任與繪畫者的創作心態，將成為此篇論文所要談論的重點。首先筆者將對「轉借」進行定義，進而追溯歷史上運用「轉借」表現形式的代表性畫家，並介紹國內運用「轉借」表現形式相當出色的「後立體畫派」，再進一步地詳細釐清國內法律對「轉借」畫作的見解，並且指出藝術家「轉借」畫作時應有的正確創作心態。

關鍵詞：轉借、法律責任、後立體畫派

### Abstract

For a creator of a drawing or an artist, when he or she sees a painting and becomes inspired by it, he or she would be moved to create another painting. This is natural. However, when the second painting is very similar to the first painting, conflicts and arguments are bound to happen. Hence, the legal responsibilities of “Appropriation” and the artist’s mentality in creating must be clarified. This is the key point that this paper will discuss. First, the writer will define “Appropriation”, and will give a historical background on the application of “Appropriation” presentation method in representing artists. This paper will also introduce the very outstanding presentation form of “Appropriation”—“Cubisme Alternatif”, and will further clarify the stand of the national law on “appropriating” art works. This paper shall also point out the correct mentality in “appropriating” art works.

Keyword : appropriation, legal responsibilities, Cubisme Alternatif

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