

Open Lecture Series

Date: March 4, 2016

Time: 5 pm to 6.30 pm

Location: Waseda University Campus, Building No. 8, 3rd Floor Conference Room

Host: Waseda University Institute of Comparative Law

Coordinator: Prof. Christoph Rademacher, Waseda University School of Law

Speaker: Prof. Shyam Balganes, University of Pennsylvania Law School

Title: Causation and Copyright?

Abstract: Copyright protection attaches to an original work of expression the moment it is created and fixed in a tangible medium. Yet, modern copyright law contains no viable mechanism by which to examine whether someone is causally responsible for the creation and fixation of the work. Whenever the issue of causation arises, copyright law relies on its preexisting doctrinal devices to resolve the issue, in the process cloaking its intuitions about causation in altogether extraneous considerations. In this lecture, Prof. Balganes argues that copyright law embodies an unstated, yet distinct theory of authorial causation, which connects the element of human agency underlying the creation of a work to the myriad goals and objectives of copyright protection. This theory of causation is best realized through an independent requirement—of copyrightable causation—that the creator of a work will need to satisfy in order to qualify as its author for copyright protection. Much like copyright's theory of authorial causation, the requirement would embody both a factual dimension (creation in fact) and a normative component (legal creation). The former would examine the connection between the work and the putative author as a purely epistemic matter, while the latter would do so through an evaluative understanding of copyright's myriad goals and policies. During the lecture, Prof. Balganes will unpack the structural and substantive foundations of authorial causation in copyright law, and argue that making it a new requirement for protection would introduce a measure of coherence and rationality into the question of copyrightability, while simultaneously allowing copyright law to overtly affirm and promote its various institutional ideals.

Language: English