

Original Paper

Analyzing Appraisal Resources in the Judgment Discourse of *Ulysses* Copyright Infringement Case

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Abstract

In this economic society, intellectual property protection play an important role in maintaining the national economic order and promoting social development. The infringement of intellectual property will bring great harm to the public and national interests. This study aims to analyze the appraisal resources in the court judgment of Ulysses copyright infringement case, especially from the perspective of attitude and engagement system. By adopting a descriptive and exploratory approach, the study investigates how attitude and engagement resources serve the declaratory and justificatory functions of court judgments. It is found that appreciation and judgement in attitude system are widely used in this court judgment, while affect is seldom applied for it deals with people's personal feelings. For engagement, disclaim and entertain resources are applied from time to time in processing the judge's objective fact analysis. It also shows that the court can effectively arrive at judgments with justice when the court professionals have better knowledge and make proper use of the appraisal resources. It is hoped that this study can arouse the awareness of legal professionals to maintain their law-based role of justice in copyright cases by the proper application of appraisal resources in their distinctive language.

Keywords

appraisal, copyright infringement, judgment discourse

1. Introduction

With the rapid development of economic society, the protection of intellectual property right draws great attention among people and businesses. It has played an important role in maintaining the national economic order and promoting social development. The infringement of intellectual property right

(IPR), especially the infringement of copyright, will bring great harm to both the public and national interests. Recently, there are more and more legal disputes on the infringement of IPR and people usually can file a suit against such infringement and then a legal court judgment is a resolution to such disputes. Therefore, a fair judgment to a infringement case is very essential to the protection of people's intellectual property right.

How the writer's or speaker's feelings and opinions are construed in texts or discourses is an important feature of language. Appraisal—the evaluative use of language—is a particular approach to exploring, describing and explaining the way language is used to evaluate, to adopt stances, to construct textual personas and to manage interpersonal positionings and relationships (White, 1998). The appraisal theory is evolved within the general framework of Systemic Functional Linguistics proposed by Halliday (1994), which regards language as a resource of mapping ideational, interpersonal and textual meaning onto one another in virtually every act of communication (Martin & White, 2005). The appraisal framework focuses on interpersonal meaning of the texts and it mainly consists of three systems, namely attitude, engagement and graduation.

This paper tries to analyze the appraisal resources applied in court judgment discourse of the *Ulysses* copyright infringement case with the focus on analyzing attitude and engagement. It is hoped that this study can arouse the court professionals awareness on the appraisal resources of their language and make proper use of them so that a fair judgment can be made to resolve infringement disputes.

2. Literature Review

2.1 Appraisal Framework

The appraisal framework was introduced by Martin in the early 1990s, but later White (1998) has devoted much energy and effort to refining the system. The framework has emerged from within Systemic Functional Linguistics and is an extension of Systemic Functional Linguistics.

Scholars from the school of Systemic Functional Linguistics, Halliday (1994) and Besnier (1993) that take the perspective of the language user in the argument that language is structured to make three main kinds of meanings (ideational, interpersonal and textual) simultaneously. The appraisal theory focuses on interpersonal meaning of the texts. Thompson (2000) declare that a superordinate term “evaluation” is preferred and define it as the broad cover term for the expression of the speaker or writer's attitude or stance towards, viewpoint on, or feelings about the entities or propositions that he or she is talking about. Appraisal refers to “the semantic resources used to negotiate emotions, judgment and valuations” (Martin, 2000, p. 145). Martin and White (2005), while developing their famous model of appraisal theory, also choose to name their publication *The Language of Evaluation*.

The appraisal theory (Martin, 2000; White, 2001; Martin & Rose, 2003; Martin & White, 2005) gives us an integrated framework to conduct a comprehensive study of interpersonal meaning and the construction of evaluative stance in texts. Appraisal is one of the three major discourse semantic resources construing interpersonal meaning. Appraisal itself is regionalized as three interacting

domains—“attitude”, “engagement” and “graduation”. Attitude is concerned with our feelings, including emotional reactions, judgments of behavior and evaluation of things. Engagement deals with sourcing attitudes and the play of voices around opinion in discourse. Graduation attends to grading phenomena whereby feelings are amplified and categories blurred (Martin & White, 2005).

2.2 Studies on Court Judgment

When a case is decided, the dispute between the parties is settled, or an offence or crime has been found or not found, then a judgment is made which is the court’s final determination of the rights and obligations of the parties. If all the linguistic studies done within the realm of law are seen as a game of jigsaw puzzle game to provide a whole picture of legal language, those on judicial discourse only occupy a very small part of the whole puzzle.

Although linguistic study of legal discourse has drawn great attentions, the language of judgment has been studied in a small quantity. The following are some typical studies on legal judgments. By analyzing the genre of legal cases, the abridged version of judgments consisting mainly those legally material facts and holdings of the courts, Bhatia (1993) concludes four major communicative purpose of judgment and holds that this genre has a typical four-move structure: (1) Identifying the case, (2) Establishing facts of the case, (3) Arguing the case, and (4) Pronouncing judgments. Kurzon (2001) makes a comparative study in American and English judicial opinions. These judicial opinions are texts produced by judges sitting in a court of appeals. He takes a look at the politeness phenomena and points out that American. and English judicial verbal behavior differs considerably, especially among American appellate judges who do not often mitigate their criticism of colleagues on the same bench and judges in lower courts with whom they disagree. Mazzi (2007) studies how argumentation is constructed in judicial texts from a combined perspective of corpus and genre. Later studies on judicial judgments focus on lexical-grammatical features and interpersonal function (Dong, 2006), as well as the critical discourse studies (Cheng & Machin, 2023).

Although there are some studies on court judgments from different perspectives, this study will enrich the linguistic study of court judgments by analyzing the appraisal resources applied in court judgment of a copyright infringement case with the focus on analyzing the attitude and engagement systems.

3. Data and Methodology

The data of this study is the court judgment of the copyright infringement case of *Ulysses*. *Ulysses*, first published in book form in 1922 and written by the Irish writer James Joyce, is a classic novel known for the world. The *Ulysses* copyright infringement case is well-known due to the fame of and attention on the novel in the world. In this copyright infringement case, there are two parties: SEAN SWEENEY and GRAHAM EDWARD CAMPS as the Claimants and MACMILLAN PUBLISHERS LIMITED and DANIS ROSE as the Defendants.

This court judgment of *Ulysses* copyright infringement case is very long and it has the length of 22,486 words. Here we focus on the Judge’s analysis of facts in this court judgment. And this part is very

representative and based on a thorough reading and analysis we find that there are a lot of appraisal resources worth our study.

Based on the appraisal framework, this study will analyze the appraisal resources in this court judgment from the attitude and engagement systems by adopting a descriptive and exploratory approach. In the Attitude system, affect, judgment and appreciation resources will be found. In the engagement system, we can analyze this court judgment discourse under headings such as attribution, modality, hearsay, concession, polarity, evidentiality, hedges and so on. As graduation deals with the ranking of individual's evaluations along a scale that serves to intensify to diminish the strength of an assertion, we do not analyze it in this analysis. In this study, we only focus on the first two appraisal resources namely attitude and engagement in the court judgment discourse of this copyright infringement case. The appraisal resources in the case study will be annotated in brackets in the following examples for a direct presentation to the readers.

4. Analyzing Appraisal Resources in the Court Judgment of *Ulysses* Infringement Case

The appraisal theory provides a useful framework to explore the interpersonal style of court judgment, especially the judge's evaluative resources in the court proceedings and the final resolution to the case. Appraisal is featured by three evaluative resources: attitude, engagement and graduation. In the copyright infringement case of *Ulysses*, there are many appraisal resources and in this section we just focus on the analysis of attitude and engagement resources in the following study.

4.1 Attitude Resources

As Martin and White (2005) holds, attitude is the overall label for those meanings referring to emotional responses and value systems. It is constituted of three dimensions, or of three major semantic systems, namely emotional reactions, ethical stance on behavior, and aesthetic orientation to the world. The terms for these three semantic aspects are affect, judgment and appreciation. Affect concerns the various ways in which writers/speakers can indicate how a phenomenon has moved them emotionally and how they appraise that phenomenon in affectual terms. It is concerned with the appraiser's emotional states. Judgment refers to attitudinal evaluation in which human behavior is negatively or positively assessed by reference to some set of social norms. The social norms associated with judgment include rules, conventions, social acceptability, social requirements of expectations and systems of value etc. Appreciation refers to those evaluations which are concerned with positive and negative assessments of natural objects, artifacts, processes and states of affairs and their form, appearance, construction, presentation, or impact.

Under attitude, people are concerned with the utterances that can indicate that some person, thing, situation, action, event or state of affairs is viewed either positively or negatively. That is to say, we classify as attitudinal any utterance which either conveys a negative or positive assessment or which can be interpreted as inviting the reader to supply their own negative or positive assessments. For example:

Example (1):

The latter criticism, at any rate, is entirely *justified* (appreciation; composition) and the lateness of the evidence in these circumstances makes it *right* (judgement; propriety) to consider it with *special* (appreciation; reaction) care.

In the above Example (1), the sentence shows the judge's statement on the fact analysis of the case. Here the judge makes some evaluative utterance on "the latter criticism" by the attorney representing the Claimants. As we have annotated in brackets in the example, there are two appreciation resources and one judgment resource under attitude system. Appreciation can be further subdivided into subsystems, organized around three variables: reaction, composition, and valuation. Reaction covers the degree to which the object being appraised captures our attention (impact) and the emotional effect it has on us (quality). Composition comprises our perceptions of the object's proportionality (balance) or its detail (complexity). Valuation includes our assessment of the social significance of the text/process (Martin, 2000, p. 160). Therefore, in this example the word "*justified*" belongs to the subsystem of composition under the appreciation and the word "*special*" is a kind of reaction of appreciation. These two appreciation resources indicate that the court thinks that the Claimants' side has justification and the court is willing to pay more attention to its appeal and evidence.

In order to distinguish between appreciation and judgment, we must determine whether what is being evaluated is human behavior or the products of human behavior. Based on the appraisal framework (Martin & White, 2005), language of judgment usually criticizes or praises, condemns or applauds the behavior of human individuals and groups and such behavior can be the actions, deeds, sayings, beliefs, motivations, etc. It can be subdivided into two subsystems: social esteem and social sanction. Judgments of social esteem comprise normality, capacity, and tenacity, while judgments of social sanction comprise veracity and propriety. In the Example (1), "*makes it right*" is a kind of social sanction as judgement, falling into propriety (how ethical someone is). Here the phrase adopted by the judge indicates that the court will make things right based on the evidence shown in the court even though it comes late, which means the court will finally make a fair judgement based on facts for the case. There are more examples for the attitude resources.

Example (2):

Mr. Baldwin is *right* (judgement; capacity) to say that there are *inconsistent* (appreciation; composition) versions from Mr. Rose of what he did, in a number of respects. However, I am *satisfied* (affect; satisfaction) that I *should* (engagement; modality) accept his account given in the witness box.

In the Example (2), one judgment resource "*right*", one appreciation resource "*inconsistent*", one affect resource "*satisfied*" and one engagement resource "*should*" are shown. Here the sentence is about the judge's comments on the facts of the case. The word "*right*" falls into the category of capacity under the judgment resource. As Martin and White (2005) holds, judgement deals with people's attitudes towards the behavior, which we admire or criticize, praise or condemn. Under judgment, human behavior is assessed moral or immoral, as legal or illegal, as acceptable or unacceptable, as laudable or

deplorable, as normal or abnormal and so on. Mr. Baldwin in this sentence is the attorney for the Claimants and the judge gives evaluative utterance of praise on the attorney of the Claimants and makes a judgment of capacity by stating directly that the Claimants' attorney is right to do something, which will have an influence on the positioning of readers. And the word "*inconsistent*" here belongs to the composition under appreciation system, which shows that the court confirms with Mr. Baldwin's perception on the imbalanced proportionality of the versions from Mr. Rose the Defendant.

According to Martin and White (2005), values of affect occur as either positive or negative categories (e.g., love versus hate, please versus irritate, be bored versus be intrigued). The inclusion of affect in a text has the potential to position the reader attitudinally. When the writer attributes some emotion to a social actor, we can expect this to provoke either a sympathetic or unsympathetic response in the reader/listener towards this social actor. If the reader endorses the emotional response, sees it as praiseworthy, justified or at least understandable, then they are more likely to be positively disposed to that social actor generally. And on the other hand, if the reader sees the reported emotions of the social actor as destructive, perverse, unwarranted or incomprehensible, then they are more likely to be negatively disposed to that actor generally. In the above example, the word "*satisfied*" is a kind of affect resource which shows the judge's satisfaction with the account by Mr. Rose given in the witness box. This evaluative resource by the judge will also have a potential to influence the reader's stance and their positioning in the case. Based on the judge's satisfied evaluation on the account of Mr. Rose as the Defendant, the reader of this court judgment will also endorse the emotional response, sees it as justified or understandable, then they are more likely to be positively disposed to the Defendant party generally.

Example (3):

Having printed a *particular* (appreciation; valuation) section of text, he first checked it against Joyce's lists of errata, and made any *necessary* (appreciation; valuation) changes, noting them on the hard copy and on the electronic version as well. Next, he said, he would check the text and apply what he called his house style to it. This involved a *different* (appreciation; reaction) use of capitals from that in the 1922 edition, a *different* (appreciation; reaction) approach to punctuation in some cases, and also *different* (appreciation; reaction) treatment of compound words, which are a *distinctive* (appreciation; reaction) feature of Joyce's writing.

In the Example (3), the judge continues to narrate the action and account of Mr. Rose the Defendant. There are a lot of evaluative utterance adopted by the judge, and the appreciation resources are used frequently here in this part. As appreciation is thing-oriented, it concerns about the positive or negative evaluation of natural objects, processes, affairs, etc. In the above Example 3, the italicized words are all contributing to appreciation resources. The words "*particular*" and "*necessary*" are valuation under appreciation as they reflect the assessment of the social significance of the . The words "*different*" and "*distinctive*" are all contributing to the category of reaction under appreciation as they shows the degree to which the object being appraised captures our attention (impact) and the emotional effect it

has on us (quality). Obviously, the evaluative word “different” are used three times in this part to emphasize on the unique feature of the text by the Defendant and differentiate the version with James Joyce’ writing. In this way, it is natural and pervasive for the court to justify the deeds of Mr. Rose as the Defendant.

Example (4):

This point is *significant* (appreciation; valuation) (if at all) in relation to a point of Mr Baldwin’s as to what he was doing when making *various particular* (appreciation; reaction/valuation) changes from the 1922 text, namely whether he was acting of his own accord, or rather copying what appeared in the underlying manuscripts. In turn this goes to Mr Baldwin’s submission that Mr Rose was *not* copying the 1922 edition *at all* (engagement; contraction; disclaim), but rather the underlying manuscripts.

Example (4) is still about the judge’s statement of fact for the case. In this example, the word “significant” falls into the category of valuation under appreciation resource, which emphasizes on the importance of “the point” in the fact analysis of the case. And the judge by saying so expresses that this point values a lot to the Defendant. And the denial phrase “Not... at all” falls to the category of disclaim of contraction under the engagement system, which clearly justifies the fact that the Defendant Mr. Rose did not copy the 1992 edition. In the following, the counter word “but” is in judge’s quotation of the defendant Mr Baldwin’s submission, because in this way he can show that he has no bias towards both parties and try his best to be objective and fair as the representative of law and justice.

4.2 Engagement Resources

As Martin and White (2005) holds, the category of engagement includes values which have been analyzed in the literature under headings such as attribution, modality, hearsay, concession, polarity, evidentiality, hedges and so on. It is concerned with the diverse range of resources by which speakers/writers adjust and negotiate the arguability of their utterances. Key engagement resources include meanings which can be grouped together under the following headings: disclaim (includes denial and counter-expectation), proclaim (expectation and pronouncement), entertainment (evidence, likelihood and hearsay) and attribution.

Example (5):

I *should* (modality) *say that* (engagement; expansion; entertain) his evidence on this was criticised by Mr Baldwin, for the Claimants, as being inherently *implausible and inconsistent* (appreciation; composition) and also because he had been ordered to give details of how he went about his task, *but* (engagement; counter) failed to do so, despite protest from the Claimants and assurances from the Defendants, until the eleventh hour, after the start of the trial.

In the Example (5), this long sentence is the comment of the judge on the defendant’s evidence. “I” here refers to the judge, “should” represents modality showing that the judge feels that it is his obligation to say so; “say that” actually is a kind of entertain under engagement because by saying “say that” the judge actually accept the following content of what he is going to say. The phrase “inherently implausible and inconsistent” is the predicative of the phrase “his evidence”, and in another words it

modifies “his evidence”, therefore it represents composition falling into the category of appreciation resource.

Example (6):

.....*However*(engagement; contraction; disclaim), I am satisfied that I should accept his account given in the witness box. *It seems to me* (engagement; expansion; entertain) to be *inherently probable* (appreciation; reaction), and *although* (engagement; contraction; disclaim) he did from time to time previously use phrases which convey a different impression I find his account in the oral evidence to be *credible and reliable* (appreciation; composition & valuation).

In the above example, “I” represent “the judge” and here he makes some comments on the case itself. In order not to illustrate his idea explicitly or state any bias, the judge just uses other people’s words, especially in the words of Mr Baldwin representing for the claimant, and uses phrases like “*However*”, “*although*”, and “*It seems to me*” to make his statement vague and fair. These expressions are belonging to the engagement, with “*However*” and “*although*” serving as disclaim of contraction, and “*It seems to me*” as entertain of expansion. By using such appraisal resources, the judge can make his statement being unbiased and fair to the readers of the court judgment.

Example (7):

Where *relevant* he *would* also check with the Little Review; *although* that is *collateral*, in the sense that it did not form part of the line of descent between Joyce’s first drafts and the 1922 edition, there are one or two instances where the Little Review has a word or words that do not appear in the 1922 edition, but which *seem likely to* have been intended and authorised by Joyce. These would have been the result of changes made by Joyce to the copy of the typescript (no longer available) which was supplied as the basis for the Little Review but which were not also made to the typescript used for the 1922 edition.

In this example, the words “would” and “would have been” represent modality. And the words “although” and “but” are contributing to contraction under the category of engagement, and they are showing disclaim. The words “relevant” and “collateral” are a kind of appreciation, the former is reaction while the latter falls into composition. The phrase “seem likely to” can be engagement and expansion, which shows entertain. By analyzing such appraisal resources, we can find out the judge’s attitude toward both parties the Claimants and the Defendants, and at the same time, through his evaluative utterances, his opinion towards the facts of the case are shown which will also have a potential influence on the readers’ positioning and stance on the case decision.

5. Conclusion

From the analysis above in the infringement case of Ulysses, we can have a better understanding of appraisal resources applied in court judgment through analyzing attitude and engagement. It reveals how attitude and engagement resources serve the declaratory and justificatory functions of court judgments. This study presents us how the judge analyzes the facts of this infringement case, mainly dealing with the defendant’s oral evidence and witness statement on his side. As a judge, his language

should be neutral and objective in order to protect the rights of both parties and maintain justice. While for this reason, to sum up our analysis above, appreciation and judgement in attitude system are widely used in the court judgment discourse, while affect is seldom applied for it deals with people's personal feelings. For engagement, disclaim and entertain are applied from time to time in processing judge's objective fact analysis. The judge can arrive at the court judgment with justice when he has better knowledge about appraisal resources and make proper use of them. Therefore, the judge's role of justice and power can be realized by the application of the appraisal resources in his distinctive language. This research is only a tentative and descriptive study on appraisal resources based on one court judgment, and further studies can be made by adopting both qualitative and quantitative methods to have a deeper understanding of appraisal resources in court judgment.

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