Comissão Nacional de Relações Institucionais do Conselho Federal da OAB

(National Commission of Institutional Relations of the Federal Council of the Brazilian Bar Association)

Your Excellency Mr. Chairman of the Federal Council of the Brazilian Bar Association – Ophir Cavalcante Júnior

PROPOSITION

Ricardo Bacelar Paiva, attorney-in-law registered at the OAB CE under number 14408, member of the National Commission of Institutional Relations of the Federal Council of the Brazilian Bar Association, Associate Secretary General and OAB CE´s General Comptroller, Chairman of the Cultural Rights Comission of Ceará, comes to Your Excellency´s presence to apply for the proposition in caption considered by the Plenary of the Federal Council of the Brazilian Bar Association in the following terms:

1. Plagiarism in educational institutions

The information technology tools and the internet advent provide unrestricted access to many databases, both official and private, several information and news from all over the world in real time.
The importance of the use of the World Wide Web, which helps in research, teaching, public and private life, and in virtually all activities should not be forgotten.

However, some distortions deriving from this easy electronic access worry us. In particular, the unbridled growth of the practice of plagiarism in the Brazilian universities and high schools.

With the convenience of copying and pasting texts from the computer, many students write their papers and monographs appropriating other authors’ works without the due credits, committing serious wrongdoings and, finally, falsely calling themselves creators of works created by third parties.

Such harmful practice is observed in all school levels. In fact, many secondary and higher education students no longer research, they only copy and paste other people’s texts.

In addition to the illegal practice of appropriating other person’s work without their permission and without duly mentioning the source, this harmful procedure infects research, producing irreparable damage. Many of our students are unable to write, do not know how to create a text or draw up an original idea and, worst of all, they do not learn to think and develop their critical sense.

The explanation is simple. Faced with the task of research, they do not read about the subject, do not reason, do not externalize a thought, and do not exercise systematically the formatting of an idea. They do not think about the studied subject, they just copy and paste other people’s text from the internet, which is serious, without the due credits.
The moral and intellectual dishonesty has spread to such an extent that some students translate entire monographs from other languages by electronic tools and call themselves authors of the papers. Some students reach the absurdity of buying third parties´ monographs to put their names as authors.

The dissemination of this practice occurs openly, and many universities, with exceptions, do not adopt strong awareness policies of the great evil that plagues Brazilian education.

Many institutions have no structure to check their monographs with more rigor, identifying plagiarism committed by students. They limit themselves only to some classes of scientific methodology that deal with ABNT rules and brush on them text quotation rules.

Brazil`s education reality, besides the known difficulties related to the lack of adequate investment, teachers´ qualification and schools without structure, has a hidden enemy: the indiscriminate use of technology that may deprive the student of thinking.

The student who does not think, does not know how to choose. In addition, he/she absorbs the deplorable behavior of taking what does not belong to him/her, and the false idea that money buys everything, paradigms that might accompany him/her for the rest of his/her life.

In some publications on the subject, an important technological tool, designed to halt such distortions is identified; it can be used on a large scale in our universities and schools: internet and databases similarity search softwares.
These softwares, coming from developers of several parts of the world, read electronically the text of the student’s monograph. They then carry out comparative tracking in various internet and databases search sites, verifying if the student copied a sentence or a paragraph, for example. Thus, the tool identifies the database and the copied text.

However, the program is not absolute. To assess whether there was or not plagiarism, the formation of a committee is necessary, to evaluate the results obtained by the program in an objective way, assessing the seriousness of the found copies.

Public policy awareness of the problem and internal procedures within the educational institutions are essential to combat plagiarism and learning level decline.

What is the use of fundings for education and good teachers, if the students do not write and do not learn?

Thus, there is an easily implemented technology to minimize plagiarism in educational institutions, which should be adopted on a large scale. We can combat the problem effectively.

2. Illegal trade of monographs

Here is a second approach to the problem related to the illegal trade of monographs.

Sites on the internet that provide monographs and ready papers proliferate, being openly traded to the students.
Many works offered in this "illegal market" belong to bona fide third parties. That is, whoever “sells”¹ works whose texts belong to third parties is a co-author of copyright infringement crimes and many times encourages students to criminal practice.”²

There is also a thesis according to which depositing a work in the university for the completion of the course that is not of his/her own authorship, is characterized as false documentation presentation.

The structure presented on these sites with "on line" service, credit card payments, branch offices in several states of the country and password service to browse through private content sites astonishes.

This "service" is openly offered, as if it were lawful, in other media, classified ads, newspapers, magazines and e-mails, corrupting our young people.³

In short, it is a silent evil that explicitly becomes part of school and academic life.

The level of a country is also measured by the quality of its intellectual production.

3. PETITIONS

Hence, being this a relevant subject within intellectual property and education, the offeror REQUESTS that OAB´s Federal Council RECOMMENDATION is sent via directive release, with copies of these reasons, to all of the higher educational institutions in

¹ The authorship of an intellectual work is not for sale, according to Law 9.610/98. Moral rights are inalienable.
² Penal code, art. 184 - Violating copyright and the related rights.
³ It should be noted that professionals who only adjust students’ papers to ABNT´s rules carry out illicit activity.
the country so that they use *an internet and database similarity search software* in their activities, and adopt awareness and information policies on intellectual property in order to halt plagiarism in academic activities.

Still, the offeror REQUESTS as an institutional support, that the recommendation is sent, with a copy of the reasons to the following:

a) OAB´s Seccional Chairmans of the whole country;

b) the Minister of Education of the Federative Republic of Brazil;

c) the Minister of Science and Technology of the Federative Republic of Brazil;

d) the Minister of Culture of the Federative Republic of Brazil;

e) the Brazilian Council of Education;

f) the Coordination for the Improvement of Higher Education Personnel - (CAPES);

g) the National Council of Technological and Scientific Development (CNPq);

h) the Presidency of the National Association of Directors of Federal Institutions of Higher Education;

i) the Presidency of the Brazilian Association of State and Municipal University Rectors;

Regarding high school, the offeror REQUESTS the Minister of Education of the Federative Republic of Brazil actions and the adoption of measures to prevent and combat plagiarism in schools.
With respect to the issue concerning the illegal trade of monographs, the offeror REQUESTS the Minister of Justice to be notified so as to contact the Federal Police, the Attorney General of the Republic and the Justice Attorney General of the Federation’s States, requesting the authorities measures aimed at halting the illegal trade of monographs in the country through rigorous investigations and exemplary liability measures, according to the legal norms in force.

Brasília, October 18, 2010

Ricardo Bacelar Paiva

Member of the National Commission of Institutional Relations of the Federal Council of the Brazilian Bar Association
OAB CE’s Associate Secretary General - OAB CE’s General Comptroller
Chairman of the Cultural Rights Comission of Ceará

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Proposition 2010.19.07379-01

Origin: Ricardo Bacelar Paiva - Member of the National Commission for Institutional Relations of the Federal Council of the Brazilian Bar Association– OAB

Subject: Proposal for the adoption of measures for preventing plagiarism in educational institutions and the illegal trade of monographs

Rapporteur: Federal Councillor José Norberto Lopes Campelo (PI).

REPORT

The records are about the proposals formulated by the illustrious attorney-in-law Ricardo Bacelar Paiva, member of the National Commission for Institutional Relations of the Federal Council, Associate Secretary General and General Comptroller of Ceará’s Seccional, where he chairs the Cultural Rights Commission, advocating the mobilization of the Entity in favor of the adoption of preventive and combat measures against plagiarism and the trade of monographs in the country.

The offeror discusses the distortions deriving from the freedom of access to the World Wide Web that, without forgetting its importance, facilitates "the practice of plagiarism in Brazilian universities and high schools."

States that the "nefarious procedure infects the research, producing irreparable damage. Many of our students are unable to write, do not know how to create a text or draw up an original idea and, worst of all, do not learn to think and develop their critical sense".
His Excellency, seeking solutions, additionally considers the implementation, in educational institutions, of an internet and database similarity search software", registering the need for the installation of commissions aimed at evaluating the results obtained.

Regarding the illegal trade of monographs, he points to the reality of sites that offer “ready papers openly traded to students."

The National Council of Institutional Relations of the Federal Council of the Brazilian Bar Association recognized the relevance of the matters and decided to suggest their discussion before the Full Council, and the function of Rapporteur fell on me, by the Chairman’s designation, to whom the document was originally sent.

It is the report.

**VOTE**

The themes approached in this proceeding have a clear impact on the Brazilian education, especially considering their educational nature for future generations.

The debate is urgent and obviously relevant, and this rapporteur completely agrees with the statement in the request that “the level of a country is also measured by the quality of its intellectual production."

The Brazilian institutions, research centers, allow plagiarism in frank permissiveness; in the university, as well as in post-graduation and high school.
The purchase and sale of monographs, as ready goods, despite the criminal feature of today’s explicit practice, affronts the Brazilian legislation, which stipulates that the author’s rights are inalienable and unassignable (Law n. 9.610, 1998).

The problems herein reported, besides the digressions about their ethical aspects, contribute to extirpate the debate and critical thinking of the students who, in this context, need reeducation.

For the redemption of the national education correctness, for the students and teachers awakening, I fully welcome the reasons stated by the offeror, which I adopt as a basis for deciding.

Given the above and adding the learned contributions collected in plenary, I vote for the compliance of the formulated propositions, in the sense that the Federal Council of the Brazilian Bar Association sends a recommendation by written notice to all of the higher education institutions in the country, so that, in exact terms, "they use an internet and database similarity search software in their activities and adopt awareness and information policies on intellectual property in order to halt plagiarism in academic activities."

Moreover, I vote for the forwarding of written notice to the Brazilian Bar Association’s Seccional Councils Chairmans and all the authorities mentioned on pages 07 and 08 of the records, to meet the objectives proposed, adding the indication of an offer of complaint to the Public Prosecution Office, aimed at the promotion of suitable actions against the sites kept on the internet that offer ready scientific papers.

Brasilia, October 19, 2010.
José Lopes Norberto Campelo

Federal Councillor – Rapporteur
Proposition 2010.19.07379-01

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Court decision: Having examined, reported and discussed the referred court records, the members of the Plenary Council of the Federal Council of the Brazilian Bar Association unanimously agree on accepting the Rapporteur’s vote, an integral part of the former.

Brasilia, October 19, 2010

Ophir Cavalcante Jr.
José Lopes Norberto Campelo
Federal Councillor - Rapporteur