

Abstract

The Right of Integrity and the Destruction of the Owner of Copyrighted Works in Korean Copyright System

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This paper is devoted to the review and analysis of the so-called 'Dorasan Station case.' One of the most important issues of this case is the direct conflict between the moral rights of copyright holder and the ownership right of the copyrighted work. A solution to these provisions has never existed in the Korean legal system. One characteristic of this case involves the destruction of art works bought by government four years ago. Another characteristic is that the works are completely and intentionally destroyed by officials without notice to the copyright holder. It is very regrettable that the government which has the duty to cultivate and to preserve the culture of the society, as stated in the Korean Constitution, arbitrarily destroyed the art works with the taxation of the people. The government asserted that it had bought the work by paying to the author and that ownership right was transferred to the government.

The appellate court in Seoul ruled last year that there was no infringement of moral rights or the right of integrity. The court did not find the legal grounds to infringe on the moral rights of copyright holder. There are currently no provision to resolve the

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conflict between the moral rights of copyright holder and the ownership right of the copyrighted works.

In my opinion, the case is a very meaningful in Korean society because it shows an important necessity to protect the created works that are not protected by the Korean Cultural Properties Protection Law. Futhermore, I think that through the historical and teleological interpretation of the provision of the Korean Copyright Act the court could find the logical grounds to decide the first case involving lawyers and art creators of the Dorasan Station situation.

Keywords

Copyright, Ownership of copyrighted works, Conflict between the moral rights of copyright holder and the ownership right of the copyrighted work. The Right of Integrity, Destruction of the Owner of Copyrighted Works, Balance of Interests, Art works, Architecture, Government works, Culture policy