

Abstract

Issues of copyright protection of architectural works

- Focused on the precedents for the last 5 years in Korea -

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This article analyzes major issues and conducts a critical review, focusing on precedents in the last five years related to architectural works. Among the attitudes of precedents related to (i) the clarity of the criteria for judging the copyrightability of architectural works or originality, (ii) the justification or the rationality of the owner's reservation of the right to use the design, etc. when dissolving the relationship of the architectural design contract, and (iii) the appropriateness of the scope of the exercise of the right to request prohibition and abolition as a remedy for lawsuits for infringement of architectural works.

First of all, if you look at recent precedents, you can give a positive evaluation of the copyrightability of buildings or architectural design in that they are changing to actively judge architectural works or originality compared to previous precedents. However, in some areas, it seems necessary for the court to establish a consistent standard for judging originality as to whether or not the golf course design drawings are copyrighted.

Next, on the issue of (ii) and (iii), on the one hand, the two differ in the plane of existence in copyright law issues, but on the other hand, both eventually lead to the issue of whether the problematic infringing building can be demolished or the problematic building can be discarded.

And both are common in that the issue of whether or not rights are abused is raised. On the other hand, in the former, the issue

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of the architect's implied permission or good faith as to whether or not to reserve the right to use, and in the latter, the balancing Interests in the stage of rights execution between the copyright holder and the infringer is a problem is particularly an issue. On these issues, it is expected that a number of refined and consistent precedents will be accumulated in the future. In the end, it can be evaluated that legal principles are still being created on these issues.

In short, this article is expected to contribute to securing an independent discipline area of the copyright law for the protection of architectural works by analyzing, critically reviewing, and organizing major issues in the copyright law and architectural academia, focusing on recent precedents.

Keywords

Architectural works, Criteria for judging originality, Demolition or disposal of buildings, Reservation of use rights, Abuse of rights, Balancing Interests