

**Abstract****Corporate Spin-off of Co-Copyright Holders and the Applicable Law**

- A Commentary on the Korea Supreme Court's decision  
2020Da250561 dated May 9, 2024 -

Minki JANG\*

This study examines a Supreme Court decision that clarified the standard for determining the applicable law in international copyright disputes and addressed the comprehensive succession of co-copyrights in a corporate spin-off (physical division). The Court held that former Article 24 of the Private International Law (currently Article 40) supplements Article 5(2) of the Berne Convention, applying the Berne Convention first in infringement cases, and the Private International Law in matters of copyright transfer or attribution. This ruling unified inconsistent lower courts approaches and established consistent standards.

In addition, this paper discusses the relationship between corporate division under commercial law and the latter part of first sentence on Article 48(1) of the Copyright Act. Upon review, it is reasonable to interpret that corporate division(Physical Division) constitutes statutory universal succession under commercial law, and thus economic copyrights are transferred even without the consent of other co-copyright holders. This interpretation is considered to enhance the legal stability of rights transfer during corporate restructuring while reasonably adjusting the rights relationships of joint works.

This paper aims to enhance legal clarity and predictability regarding the determination of the applicable law in international

---

\* Senior Researcher, Korea Copyright Commission

copyright disputes and to provide practical and academic insights into the transfer and attribution of copyrights during corporate reorganization.

### **Keywords**

applicable law, Private International Law, Joint works, International copyright, lex protectionis, self-executing, spin-off, universal succession, Bern Convention