

Abstract**Fair Use and AI Training: An Analysis of the Ross and Bartz Decisions**

Jeong Jin Keun*·Yunseo Sung**

With the rise of the AI era, the importance of training data has grown significantly. In response, countries are either introducing exemption provisions for AI learning or evaluating whether such use falls under fair use. Due to delays in text and data mining (TDM) legislation, South Korea, like the United States, must rely on the fair use doctrine. However, it remains unclear whether the use of copyrighted works for AI training qualifies as fair use.

In the United States, conflicting lower court rulings have emerged regarding fair use in the context of AI training. Although not binding precedents, these cases provide a basis for predicting how courts may approach fair use in future AI-related disputes. However, many interpretations, including those in the relevant cases, fail to account for the layered structure of AI learning, leading to ambiguous legal standards.

AI training consists of distinct layers—input, hidden, and output (creative)—each with different legal implications. Ignoring these distinctions risks inappropriate applications of fair use. Furthermore, recognizing fair use even when it unjustifiably harms the interests of data set or database providers contradicts the fundamental goals of copyright law.

This paper analyzes the reasoning behind recent U.S. case law through the lens of the four statutory factors of fair use and proposes

* Faculty of Law School, Kangwon National University

** Ph.D. Candidate, Department of Data and Intellectual Property Convergence, Kangwon National University

a framework for future application. Particular emphasis is placed on whether such use infringes upon the essential and legitimate interests of copyright holders.

Keywords

AI training, data training, fair use, transformative use, database right holder