

Abstract

Legal Issues regarding Joint Works

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Unlike in the past, most copyrightable works are generally needed a large number of contributions from many people. As a result, there exist much more joint works than before.

According to Korean Copyright law, there are three necessary conditions to be admitted as a joint work. They are being created by plural persons, intention among(or between) joint authors, and non-detachability. Also the statute adds some restrictions to using, licensing or selling joint work which is similar to those of joint tenancy. But there is no regulation what is the essence of this kind of relations.

Intention was the key condition just like the comment in the House Report about Copyright law Revision in 1976. On the other hand, non-detachability condition is minor one which is just extracted from the superficial character of joint works. So it seems reasonable that a joint work should be established not on the basis of non-detachability but the intention among(or between) joint authors.

Regarding the essence of the legal relations among(or between) co-owners of copyright work, it would be better to separate them into co-ownerships by joint authors and others. Co-ownerships by joint authors should be joint tenancy because there exist interchanged intentions. But co-ownerships by others should be tenancy in common because they are lack of those intentions. In view of this, we need to consider that ‘co-owners of copyright’ on the article 48-1 and 48-3 should be revised into ‘joint authors’.

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Keywords

joint work, joint author, co-ownership of copyright, exercise of copyright, copyright law article 48

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