

Abstract

**A Study on the Scope of Unfair Publication
with regard to the So-called “Cover-Change” Case
- With Focus on the Uijeongbu District Court’s 2015Godan4745 Decision -**

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On June 15, 2016, the Uijeongbu District Court rendered its decision on the so-called “Cover-Change” case (case no. 2015Godan4745). Some professors, in conspiracy with publishers and real authors, has made college textbooks public under their name even if they were not the authors of the works. They were indicted on a charge of “Unfair Publication” which is codified at Article 137-(1)-1 of the Copyright Act. Under this provision, a person who has made a work public under his or her real name or pseudonym other than the author, may be punished by imprisonment for a term of no more than one year or a fine of no more than KRW 10 million. The court sentenced that the accused are guilty of their unfair publication in case of the first edition, whereas they are not guilty in case of the second edition.

However, the decision should be criticized on the three grounds. First, the court limited the meaning of “making public” only to the first edition, but this interpretation is groundless pursuant to the original definition of “making public” in Article 2-25. Second, the court held that Unfair Publication aims to protect the social trust on the identity of authors, but copyright law does not intend to protect it because the law guarantees authors’ right to use pseudonym or anonymity as right of attribution. Third, the accused are not guilty of Unfair Publication since the original author agreed to put their names on the work and such permission justifies the publication at issue.

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Keywords

Cover-Change, Unfair Publication, Article 137-(1)-1, Right of Making Public, Right of Attribution

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