

Abstract

A Study on the Meaning of “Comprehensive Representation” and the Practical Strategies for “Choice in the Extent of Trust of Rights” in Copyright Trust Management Business

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There are two major unresolved issues concerning copyright trust management business. One is that it is difficult to interpret the meaning of “comprehensive representation” which is contained in statutory definition of copyright trust management business. The other is that music copyright holders do not have a choice in the extent of trust of rights when they conclude copyright trust contract with trustees (namely “organizations conducting copyright trust management business” hereinafter, “organizations”) in light of current music copyright practices. The purpose of this paper is to study the meaning of “comprehensive representation” and the practical strategies for “choice in the extent of trust of rights” in copyright trust management business. According to consider the legislators’ intent, I deduce that “comprehensive representation” corresponds to so-called “discretionary representation.” It means that mandator’s agency or agent has the power to determine the amount of royalties due when the exploitation of its works, etc. is authorized. In relating to the practical strategies for “choice in the extent of trust of rights”, it is not desirable that the government should force “organizations” by law to introduce it in stipulations for copyright trust contract. Preferably, the government’s mission is to exercise administrative guidance over “organizations” and make them accept it.

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Keywords

collective management of copyright, copyright trust management business, comprehensive representation, discretionary management, choice in the extent of trust of rights

참고문헌

1. 국내문헌

단행본

- 강신하, 『저작권법』 제2판, 진원사(2014).
- 광장신탁법연구회 편저, 『주식 신탁법』 제2판, 박영사(2016).
- 김정완, 『저작권법 개설』 제2판, 전남대출판부(2014).
- 라렌스·카나리스 저, 허일태 역, 『법학방법론』, 세종출판사(2000).
- 박성호, 『저작권법』, 박영사(2014).
- 박성호·김병일·박경신, 『저작권 위탁관리업 개선방안 연구』, 문화체육관광부(2016).
- (사)한국디지털재산법학회(이상정 외 5인), 『‘저작권관리사업법’ 제정을 위한 연구』, 문화관광부(2008).
- (사)한국저작권법학회(허희성 외 3인), 『저작권 위탁관리제도 개선방안 연구』, 문화관광부(2004).
- 서달주, 『저작권법』 제2판, 박문각(2009).
- 송영식·이상정, 『저작권법 강의』, 세창출판사(2015).
- 송현진·유동규, 『조해 신탁법』 개정판, 진원사(2014).
- 오승중, 『저작권법 강의』, 박영사(2016).
- _____, 『저작권법』 제4판, 박영사(2016).
- 이규호, 『저작권법』 제4판, 진원사(2014).
- 이기수 외 6인, 『지적재산권법』, 한빛지적소유권센터(1996).
- 이영준, 『한국민법론 총칙편』 수정판, 박영사(2004).
- 이해완, 『저작권법』 제3판, 박영사(2015).
- 임원선, 『실무자를 위한 저작권법』 제4판, 한국저작권위원회(2014).
- 임채웅, 『신탁법 연구』, 박영사(2009).
- 저작권심의조정위원회(최경수 외 5인), 『저작권법 전면 개정을 위한 기초 조사연구』, 문화관광부(2001).