

Abstract

Review of Copyright Limitations under the Copyright Act in the Digital Age

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Copyright law continues to change its contents according to the process of the development of media technologies, which have also been changing the form of use of works protected by copyright law. This is results from the digital transformation; most of the content including copyrighted works are changed into digital forms. Just as the Printing Revolution in the past brought the era of reproduction, it leads to the era of transition to the 'Digital' Revolution. As one of phenomena of transformation, the form of using copyrighted works is changing from downloading for the long-term use to streaming for temporary use. Of course, while digitized works are mainly used online rather than offline, the current copyright law has a large number of provisions based on the traditional/classical use of works. Copyright infringement in online space can bring more complex problems than expected due to the development of digital technologies. Despite the new technologies used in the online space, our copyright law does not provide an appropriate answer to whether the use of copyrighted works constitutes an infringement or whether the interests of copyright holders and users are reasonably balanced. There is a gap between reality and law, where various uses of digitized works matter, and this paper will look at copyright limitations in consideration of using digital content, which has become common due to the development of digital technology.

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The Korean Copyright Act basically stipulates the rights conferred on copyright holders, while exercising those rights of copyright holders is restricted for securing rights of users who use works. The history of copyright law is nothing but a history of constant tug-of-war between rights holders and users, and we should examine whether the current copyright limitations are undertaking appropriate functions in the digital era for the purpose of balancing between rights holders and users. Although they are largely divided into limitations for the public interest and limitations for user convenience (private interest), the purpose of the user convenience will eventually contribute to promote access and use of works and lead to the improvement of the cultural industry. On the other hand, as a result of reviewing fair use (Article 35-5 of the Copyright Act), copyright law is ultimately characterized as a law for cultural development, and it is on its way to adapt itself to the rapidly changed environment of content consumption in response to technological development. Rather than simply adjusting profits on the premise of the conventional confrontation structure of 'rightsholder versus user', it is necessary to keep in mind that the complex relationship between various subjects surrounding the efficient use of digital works is well understood and controlled. In the reality in which the possibility of copyright infringement is increasing when using digital works, copyright limitations do not seem to balance users and rightsholders. Ultimately, when digital content users use works, it will be necessary for copyright limitations to make clear the scope and contents of practically permissible use in more details.

Keywords

Digital Revolution, Copyright limitations, Interests of copyright holders and users, Balance in copyright, Purpose of copyright law