Abstract

Improvement of Database Rights
for the Development of Data Economy

Lee, Sang-Yong*

In order to support the transition to a data economy where data functions as an important product and commodity, it is necessary to establish an institution to encourage producing and opening quality datasets.

Database right under the Copyright Act and the prohibition of unauthorized use of other's achievements and illegal use of data under the Unfair Competition Prevention Act serves as potential institution for protection of datasets. Each of these has its own strengths and weaknesses and can play a role, but the prospects of the database right stand out in particular. This is because it has excellent clarity and predictability, protects against infringement by non-competitors, and separates the domains of monopoly and sharing appropriately and clearly.

However, database right is not without room for improvement. First, there are unstructured datasets without searchability among training data for AI, and it is necessary to remove the element of searchability from the concept of database in order to include them in the scope of protection. Second, in order to compensate for the uncertainty of protection requirements, it is necessary to introduce the provision for presuming the establishment of 'substantial part' of the database when structural information on the arrangement or composition of materials is included. Third, it is necessary to reexamine the boundary between monopoly and sharing. For

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* Konkuk University Law School Professor

example, if the database is the sole source for a certain data, it may be desirable to introduce a compulsory licensing regime according to the FRAND standard.