Abstract

Reasonable Compensation for Creative Labor: International Practices and Precedents of Audiovisual Author's Unwaivable Right to Remuneration

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For copyright to achieve its original purpose, creators should be entitled to fruits of successful exploitation of their work after they license or transfer their rights. Due to imbalance of bargaining power, creators often sign away their rights to compensation. To respond that, we need to think about legislating an unwaivable right. Its operation resembles the fee collecting systems already set up for television writers and actors in Korea and for music writers and performers around the world, which originate from historical reasons, collective power, or the statutory compensation for performing music recordings. The last example is enshrined by Rome Convention and WPPT, and its modus operandi can be easily applied to audiovisual recordings. When the 2016 Beijing treaty does exactly that for audiovisual performers (i.e., actors and actresses) and where digital technology makes collection of fees for various ways of communicating the audiovisual works to the public, the time is ripe to seriously consider the audiovisual authors' unwaivable right to remuneration extending beyond performers and inclusive of directors and script writers. In doing so, it will be desirable to take the form of compulsory licensing for copyright limitation so that the right to remuneration exists even when the creators have not made licensing or transfer. Collective management societies' collecting activities may be more efficient than filing lawsuits for

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copyright infringement.

Keywords

performers' statutory compensation, authors' unwaivable right to remuneration, audiovisual works, performance right, broadcasting right

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