

ABSTRACTS

'Open to the public' provided in the definition of the performance means the place that an unspecified or specified number of the public people can access to. The case reviewed analyzes 'the open place' of §35 in the copyright law as 'the outdoor place' and decides whether the use at the hotel lounge is a copyright infringement.

Although the open place provided by §35 in the copyright law is interpreted as the place included in the 'open place to the public', the public place which permits a free use needs to be analyzed as the outdoor place. For the balance with art copyright owners and users, we have to interpret the public place which permits a free use narrowly. The indoor place like the hotel lounge in the case reviewed is the public place, but it is not the outdoor place, then the public could not use the works freely in that place.

Art copyright works which are displayed always at the outdoor place would be freely used by all means. But the copyright law does not mention what types of uses can be freely exploited except a reproduction. Although the case reviewed does not articulate whether the free use includes distributions, broadcasts, electronic transmissions or not, the case interprets that all methods are permitted unless the use is for sale.

Keywords : copyright, public place, copyright works, display, broadcast, electronic transmission, copyright infringement