

## ABSTRACTS

This study examines the issues related to the application of Korean copyright law to the UCCs that are not exact copies of other materials, that are not created from scratch, but that are created by using other existing materials. When a person uses other copyrighted materials but adds creativity of her own and creates another UCC, under what conditions will that be not considered an infringement of copyright? It depends on whether the newly made UCC is considered a derivative work or an independent work, whether the UCC is considered parody, and what is the purpose of creating the UCC and whether the use of the copyrighted material was within fair scope and consistent with fair customs. If the rules of copyright that grant the right to modify the work only to the copyright owner are applied strictly to UCCs, most UCCs will be considered infringing copyright holder's right to make derivative works or their right to have integrity of the work. And the Korean courts have not developed clear rules regarding parody, except that "merely evoking laughter" does not constitute social value that is required to become a parody. In addition, in order to be exempt from copyright infringement, the purpose of the creation should be reporting, criticism, education, or research, which is not usually the purpose of recent UCC creations. Thus, most UCCs that are made just for fun or combine humor and criticism are likely to be considered that they lack serious social value, or have some commercial purpose, thus infringing copyright. When the copyright law is applied in this way to UCCs, creativity that could have been spurred by digital technology will be withered. Examining the U.S. fair use rules and a court case regarding parody provides important implications about how to balance protecting copyright holders' rights and promoting creativity for future works. I suggest adopting the "transformative rule," which suggests that when the new work is transformative, thus adds something new to the existing environment, the work should not be considered an infringement of copyright, even if the work has some commercial nature or affects the copyright holder's market.

**Keywords** : UCC, creation, limitation of copyright, parody, fair use, transformative use