

## Abstract

### Contending Legal Issues for the Joint Authorship Requirement

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The creation of a copyright work by two or more parties is fraught with legal problems, since the contribution of each may be measured in both physical and intellectual terms and the range of solutions offered by the law is narrower than the range of factual situations to which it applies.

Joint creation raises issues both in terms of authorship (ie who in fact created the work?) and in terms of ownership (ie who is legally or equitably entitled to the copyright?). This Article examines contending issues raising in terms of joint authorship. Korean Copyright Law, Section 2 (Item 21) defines <joint authorship work> as “a copyrightable work created by two or more authors with collaboration where the contribution of each author cannot be used with separable from the parts of the other. From this definition, in order to qualify as a joint authorship work, three kinds of conditions are required. That is to say, the first one is <a creative contribution requirement>; the second one is <a collaboration requirement> and the third one is <a inseparable use requirement>. This Article examines these requirements of collaboration, contribution and inseparable use in joint authorship in detail. It discusses Korean and Japanese theories and case law including US and provides a comparative assessment of the requirements between Korea, Japan and USA.

This Article also identifies and examines some contending issues surrounding the definition of joint authorship; the nature of the requirements of collaboration, creative contribution and inseparable use. For example, what amounts is a sufficient contribution. This Article examines the argument that joint authorship should be determined by using similar conceptions applicable to individual authorship. There is another argument for

recognizing the intellectual or emotional contribution in the creation of a work as having some legal consequences even if it falls short of the classical definition of joint authorship. At the heart of these arguments is the belief that the unavoidable result of the present definition of joint authorship may contradict the aims of our copyright system through the denial of authorial contributions and withholding of reward from authors.

**Key words :** Authorship, Joint authorship work, Joint authorship, Creative contribution requirement, Collaboration requirement, Inseparable use requirement