

Abstract

Protection of intangible cultural heritage in the perspective of copyright right

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With the frequent use of intangible cultural heritage and the spotlights on its potential value, disputes are increasing. Whereas copyright may reflect interests of intangible cultural heritage holders, the current copyright system is limited in providing the enough protection of intangible cultural heritage. In other words, copyright protects derivative work, compilation works and performers's right based on intangible cultural heritage, but it often fails to protect intangible cultural heritage itself.

This study compares and analyses relevant regulations of foreign countries which have legislations on traditional cultural expressions in their domestic copyright law. Each country has several things in common; they appoint national authorities or competent authorities as an owner or beneficiaries of rights in defining traditional cultural heritage and its protection boundaries. In addition, each country entitles moral right and copyright relating to the scope of protection. However, regulations of each country have a few limitations from the point of view of the draft discussed in WIPO IGC.

It is time for our country to make a policy on the protection of traditional cultural expressions, referring to cases overseas and WIPO IGC discussion. This policy making process should involve an empirical study about the domestic traditional cultural expressions. The study will help extract the kinds and features of traditional cultural expressions which need legal protection, define subject matter of protection and criteria for eligibility and further provide(regulate) an owner or beneficiaries, scope of protection and exceptions, sanctions and remedies.

Keywords : Intangible cultural heritage, Traditional cultural expressions, Folklore, Copyright, Intellectual Property Right,