

## Abstract

### Owner's destruction of the physical object of the work and author's moral right

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Korean legislator gives the author the right to preserve the integrity of the content, form, and title of his work(Copyright Act, Article 13). Could this right be extended to the owner's destruction of the physical object of the work? Most scholars argue that if the work has disappeared from sight, the author's reputation can not be damaged by something that the public can not perceive. But I think that destruction is the ultimate form of mutilation. So I say YES concerning the certain works, for example artistic works, which have to be expressed in the tangible medium from the first, because the destruction of the physical object of the artistic work means that the artistic work itself exists no longer. So the preservation of that work is violated. The copy is not the same content and form as the original. In that work, the destruction is indeed the most extreme form of mutilation. So the copyright act does not mention the destruction expressly, and the destruction of the artistic original work violates the integrity right of author.

Then could the author prohibit the destruction of the physical object of the work at any time? I say NO. If yes, it means the destruction of the basic system of the property law. Both rights are the same. Neither the property right nor the copyright is superior or inferior to the other. Both rights are granted and protected by the Constitutional Law. So the conflict between the owner's property right and author's moral right will arise. There need be a compromise and a balance between the interest of the owner and that of the author. At present we have to solve the problem by considering the circumstances of each case when the conflict arises. But it's not wise. We need the express solution. The article 15 of the Swiss Copyright Act is a good example. But to legislate, we need a further study and research. To adopt the Swiss model as is, or add some modification depends on the

further study.

Keywords : Ownership, Moral right, Right of integrity, Destruction of the physical object of the work, Berne Convention 6bis, Derogatory action in relation to the work, Balance of the interest.