

Abstract

Destruction of the Tangible Object of Artistic Works and Moral Rights

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Destruction of the tangible object of artistic and other works (hereinafter referred to as “artistic works”) has raised the controversial issue recently in connection with removal of murals at Dorasan Station. Can the owner destroy the tangible object of artistic works at his disposal just because he has ownership of them? The Korean Copyright Act provides that the author shall have the right to preserve the integrity of the content, form, and title of his work, but doesn't specify whether his right is extended to the destruction by the owner of the tangible object of artistic works. This issue is very controversial. In any case, I think it is necessary to balance interests between the author and the owner. Some countries have been attempted to find a solution through many case studies for a long time. Other countries have legislated for the preservation of the tangible object of artistic works against destruction. None of them is satisfactory to us. I think we have no choice but to consider finding a legislative solution. This paper, after examining the contents and limitations of the present regulation, analyzes the situation of case law, legislation of major countries and their implications. It reviews requirements(or the elements to justify destruction) for protection and exception(limitation) that should be considered in determining infringement and in legislation. Finally, this paper presents the basic principles of interpretation on the destruction of the tangible object of artistic works, including other legislative issues.

Keywords: Artistic work, Destruction, Moral rights, Right to integrity, Ownership, Visual artistic work, Tangible objects, Original of a work, Copy of a work, Balance of interest