

Abstract

**A Study on the Right of Attribution and
Derivative Rights**

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The purpose of this article is to find out , first, the range of interpretation of the author's right of paternity, and second, the relationship between the creation of derivative works and the infringement of the right of paternity in Korean Copyright Act(KCA). To achieve the purpose, this article first clarifies the legal interest that the right of paternity should protect. This article shows that the author's right, as Immanuel Kant who first provided the underlying philosophical foundation for author's right, is the right of an author to communicate his thought to the public, and therefore that it is only when the public is confused about, or misunderstand, the author's thought that both rights of paternity and integrity are infringed. This article also shows that the 19th century French and German statutes protecting author's name prohibited fraudulent uses of author's names, for fair and honest dealings, honest markets and consumers, rather than for the author's personal interests.

This article argues that the infringement of the right of paternity does not premise on the creation of derivative works, because they are protected for different legal interests. This article also argues that right of paternity and right of integrity should be understood differently because they also protect different legal interests. Thus, in digital and internet environments where new types of cultural goods are produced quickly and easily, right of attribution should be enforced strictly for the sake of the fair dealing and consumer protection, while right of integrity should receive loosened interpretation to lower the transaction cost of re-creation of cultural products.

Keywords

moral right, right of paternity, right of integrity, derivative works, public interest, fair dealing, honest dealing

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