

Abstract

**A Study on the Assessment of Computer Game Work
- by Game Mechanism -**

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With the development of devices, game distribution channel has been enlarged. Following that, small game businesses earned chances to take a part in the online game industry which has long been led by a few major firms. As a result, the numbers and the genres of distributed games have been diversified. At the same time, however, a phenomenon so-called 'cloning' has been quite prevailing not only in Korea but all around the world. 'Cloning' in game industry indicates developing an mimicking game by plagiarizing the whole mechanism of a famed game.

According to the copyright law perspective, a game work is composed of computer program work, audiovisual work, graphical work, literary work and so much more. So it can be protected by copyright law. For that reason, game cloning phenomenon involves a high likelihood to be directed to copyright infringement. Up to now, there has been constant conflicts on computer game work. Yet, the Korean court has been focused on what appeared on game works such as game characters, rather than its computer program traits. And the court has long been ruled that the appearances of computer game work are barely protectible since they are not expressions but ideas. Computer game's system or the method of operation are also deemed as unprotectible because they are lacking of creativity and their functionality which is generally shown out of protecting zone.

Meanwhile, the U.S. court which had denied the copyrightibility of computer game program's structure has shown a movement to protect it since 2012 acknowledging the creativity of computer program elements of computer game in some cases. Comparing the two distinctive approaches of each court, one can doubt that Korean court is excessively depends on the 'look and feel

test' when testing the similarity of mattered game works. But by analysing computer game work on the aspect of computer program, a computer game work can be recognized its copyrightibility as a whole. The purpose of this article is to propose the necessity to analyse computer game work by the game mechanism.

Keywords

Substantial similarity on computer game work, Game plagiarism, Computer game infringement

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