

Abstract**A counterargument against the legislation scheme of
Best Seller clauses and Termination Rights**

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Many scholars allege that copyright contract provisions in Korean Copyright Act should be revised to protect authors more effectively. Their allegations seems to be based on the best seller clauses of the German Copyright Act(§32 and §32a) and the France Copyright Act(§ 131-5), or the termination rights of the U.S. Copyright Act(§203 and §304). These allegations are on the assumption that the authors do not get their fair share in the copyright industry.

The Korean Copyright Act provides that the purpose of the Act is improvement of the culture by the balancing between author's rights and fair use(§1). Korean Courts have developed sound case law system conforming to the purpose of the Copyright Act. The Artists Welfare Act of 2012 provides that developing and distributing model contract forms is government's obligation, it also fosters fair contract surroundings between authors and producers. Ministry of Culture, Sports and Tourism has exerted to develop model contract forms in diverse genres mainly to protect authors.

Bern Convention of 1886 focused on authors rights, however WIPO Copyright Treaty of 1996 emphasized balance between the right of authors and the larger public interest. Korean society has endeavored to protect authors rights in diverse ways, I don't think it is imperative to import foreign legislations which have their own social backgrounds. My conclusions is that applying the general rules under civil law will be more practical either to protect authors or to balance between authors' rights and fair use.

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Keywords

copyright contract, balance between authors and fair use, Artists Welfare Act, model contract form, lésion, best seller clause.

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