

Abstract

The Study on the Person by Whom the Resale Royalty is Payable

- Focusing on the Judgement of European Court of Justice -

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The artist's resale royalty right, commonly called *droit de suite* provides artists with an opportunity to benefit from the increased value of their works over time by granting them a percentage of the proceeds from the resale of their original works of art. Almost a century later, The artist's resale royalty right has been implemented in 93 countries since created in France in 1920 and is recognised in Article 14^{ter} of the Berne Convention. There have been deep divisions between supporters and opponents on the adoption of the right, and the biggest issue has been the effect and efficacy of the right in practice, which is the same for the introduction in Korea. Accordingly what matters is the consideration into the person who is obliged to pay the resale royalty as well as the essence of the right before adopting the right.

This article addresses the judgement rendered by the European Court of Justice on 26 February 2015, which considered whether the general terms and conditions of Christie's France could include a clause transferring the obligation to pay the artist's resale royalty to the buyer. Part II discusses the history of the resale royalty right and recent discussions in the international level and addresses legal characteristics of the right. Part III provides the overview of the feature of art markets, which cause concern for the effectiveness of the implementation of the right and discusses the necessity for inquiry into the person who shall burden the cost of resale royalty right. Part IV analyzes the Court of Justice and its implications for the discussion on the introduction of the right as well as considerations in introducing the right into Korea.

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Keywords

Artist's Resale Royalty Right, Droit de Suite, European Court of Justice, Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the Resale Right for the Benefit of the Author of an Original Work of Art, a Person Who is Obligated to Pay Resale Royalty, Art Market, Art Market Professionals

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