

**Abstract****Copyright Ownership of Government-Funded Software**

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The purpose of this article is to propose an institutional reform that can strike a fair balance between the protection of the creator who developed the software and the public that funded the development by analyzing the legal structure and the status of copyright ownership of the computer program developed by public fund. The proposed reform includes: leveling up to a legislation the General Terms and Conditions of Service Contract that is based on a principle co-ownership of copyright between the government agencies and developers, rather than applying the creator doctrine for the copyright ownership under the Copyright Act; revising the State Property Act, which prohibits the sole ownership of developer; and correcting practices that do not follow the principles for software copyright ownership between the government agencies and developers.

The present legal structure for the copyright ownership of public-funded software can be explained as consisting of: (1) general laws including the Copyright Act, the National Contract Act, the General Terms and Conditions of Service Contract, and the State Property Act; and (2) special laws including the Basic Act of Science and Technology, the Technology Transfer Act, the Technology Innovation Promotion Act, and Software Industry Promotion Act. After reviewing the domestic legal structure, this article compares it with the structure of foreign countries for the state-owned intellectual property management system, the government procurement system and the laws related to intellectual property rights in Australia, France, European Union, Japan and the United States. Then, this study analyzes the present status on how the copyright ownership of public-funded software has been allocated between the government agencies and developers and examines problems stems from

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legal structure or practices. Based on this examination, this article proposes legislative measures to codify the rules of the General Terms and Conditions of Service Contract, of which the legal position is inferior to an act and revise the Software Industry Promotion Act to mandate disclosure of information on copyright ownership.

## Keywords

Copyright Ownership, Public-Funded Software, National Property Act, General Terms and Conditions of Service Contract

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