

Abstract

**Can North Koreans Substantially Claim the Copyright
Infringement in the South Korean Court**

**- Focusing on Legal Issues in the Copyright Infringement Litigation by
North Korean Residents-**

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There were only a few cases in which copyright holders in North Korea filed lawsuits in South Korean courts, claiming that their copyright was infringed. In the course of these proceedings, different problems has appeared from the ones in the cases in which the copyright owners who reside in South Korea filed lawsuits regarding North Korean works. In this article, these problems and other possible issues in the cases North Korean residents file a lawsuit has been reviewed.

The relationship between North Korea and South Korea can be seen as a 'special relationship', rather than regarding the status of North Korea as an anti-state group. Accordingly, the court jurisdiction is not necessarily present in the South Korean courts, but can be determined by analogy with the provisions of the Act on Private International Law. However, if a lawsuit is filed in a South Korean court, it is highly likely that the South Korean court will have the jurisdiction. The demonstration of the delegation to a lawyer in South Korea shall not be a method of certification order. If we regard the relationship between the South Korea and the North Korean as a special relationship, a North Korean resident can be treated as similar to a foreigner. In the same drift, in the decision of the governing law, South Korea's copyright law can be applied not because North Korea is South Korean territory, but in accordance with the Berne Convention.

In the judgment of the facts, it should be confirmed to whom the copyright has occurred, to whom and how it was transferred, and whether a party has

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satisfied the requirement for setting up against a third party. If exchanges between the two Koreas take place in the future, discussions on such matter should be made.

Keywords

North Korea, Copyright, Berne Convention, Special Relationship, Territory Provision, Certification Order