

**Abstract****A Study on the Copyrightability of Obscene Works**

- If it is same, make it same and if it is different, make it different -

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It is prohibited to produce and distribute obscene works according to related laws in Korea. However, in the academia of copyright laws, it is the established theory and the dominant theory to acknowledge the copyrightability of the obscene works if only the minimal originality is recognized, and the attitude of the court is not much different from that of the academia. But, in the so-called "heavy uploader" case, the Supreme Court of Korea made a decision that acknowledged the copyrightability of obscene works without artistic value. Since then, concerns have been raised about the indiscriminate claims of obscene works producers such as false accusations or planned lawsuits to claim compensation with the copyright of obscene works, and these concerns have already been realizing in the real world.

In order to resolve these problems and to establish more advanced copyright theories for obscene works, we have examined the new criterion for judging the copyrightability of obscene works focusing on theory of interpretation that does not acknowledge copyrightability by denying the originality of obscene works with illegal contents and obscene works without originality, and theory of legislation that addresses the revision of the current definition of works and new legislation of copyright restrictions on obscene works, and the guidelines for copyright registration of obscene works in this paper.

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## Keywords

Obscene Works, Copyright, the Copyright Act, Copyright Registration, Works, Copyrightability, Originality, Copyright Registration Guideline

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