

Abstract

Procrustes' Bed and Rule of Law

- A Glance at the Recent Copyright Disputes on Digital Fonts
with 'Necessary' Judicial Activism's View -

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The history of copyright law can be understood as the history of the enlargement of copyright works. It is no exaggeration to say that the judgment of copyrightability is the beginning and the end of copyright dispute. However, our law provides abstract and comprehensive definition. And this results in the judiciary's need to review the copyright dispute's subject matter.

Meanwhile, terminologies such as judicial activism and juristocracy have recently been circulated in the population. Many judges wish to make rulings solely on the principle of separation of powers according to the law; in reality, many judges act like legislators. The mere inclusion of law rules in cases is desirable. But the interpretation of the law, regardless of the times, technology and social development, will be like the bed of Procrustes, also leading to the juristocracy.

copyright law, which was prescribed in abstract terms as technology evolved, does not facilitate the determination of the copyrightability. This would make the judiciary more active in demanding the same action as lawmakers compared to other laws, which could be called "necessary" judicial activism.

A recent dispute on digital font is now heading to the court. Our Supreme Court has maintained this view to date since 2001 when it recognized digital fonts as computer program. But about 20 years have passed, and our law is still vague. If the resolution through legislation is remote, the judiciary will have to finally review the inevitable unfinished state of the legislature as a legislative body and a symbiosis.

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Keywords

Digital Font, Typeface, Copyrightability, Judicial Activism, Juristocracy, Rule of Law

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