

Abstract

**A study on aesthetic criteria for permissible scope of appropriation art under the Korean copyright system
- Focusing on the establishment of the procedural standards -**

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The purpose of the study is to address an inevitable conflict of appropriation art embracing other's copyrighted works and copyright law and offers potential mechanisms for solving this conflict.

Although there has been a time-honored tradition of copying and appropriation in art community for centuries, appropriation art borrowing or even directly copying other artists' copyrighted works or other cultural materials is more likely to infringe economic rights and moral rights under the current Copyright Law of Korea.

Considering this possibility of this conflict, the study examines whether appropriation art constitute copyright infringement under the current copyright law, otherwise can be permitted as fair use and furthermore potential mechanisms for solving conflicting interests between appropriation artists and author or copyright owners through comparative legal review. Especially in appropriation art cases, courts inevitably can not avoid making aesthetic reasoning as well as legal reasoning, and thus engagement in aesthetic discourse would reduce the mismatch of legal and artistic developments. In this regards, the study does not advocate a specific aesthetic theory, but proposes "art community standard", focusing on the procedure of application of varying aesthetic viewpoints and mechanisms available under current Korean legal systems, including appraisal system and expert commissioner system.

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Keywords

Appropriation Art, Copyright Act, Aesthetic Reasoning, Art Community Standard, Doctrine of Avoidance