

Abstract

Legal Nature and Status of the Obligation to Specify the Source under the Copyright Act

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Although the obligation to specify the source (Article 37) is independent of the standard for indicating the source and is independent of the obligation to the attribution right or copyright infringement, its status is unclear and has not been properly evaluated. In this study, in relation to the establishment of the status of the obligation to specify the source, various opinions, such as the basis for imposing the obligation to specify the source or the purpose of approaching the purpose of protecting the social legal interest, were summarized. At the same time, the status of the obligation to specify the source can be grasped through consideration of its legal nature, whether the obligation to specify the source has a uniqueness distinct from the responsibility of copyright infringement, and whether it is a duty that can be excluded by agreement of the parties, Even if they have Jus Cogens' nature, they have also investigated whether they are indemnification provisions that indemnify if they fulfill a certain mandatory indicating obligation, or whether they are regulations that enforce active duty fulfillment. Moreover, the status of the obligation to specify the source can be clarified through comparison with adjacent indicating systems, such as the issue of infringement of the right to attribution or the indicating of the source as a legitimate citation requirement, while analyzing the similarities and differences between these regulations and systems. I tried to grasp the status through comparison work. Lastly, the effect on the operation of the system, such as the effect of differences in the position on the nature and purpose of the provision of the obligation to specify the source, on the establishment of rules on rational indicating methods in the scope of the specification on the source, was also comprehensively reviewed.

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Lastly, the legislative task required to establish the legal status more clearly was also summarized.

Keywords

Source Indication, Obligation to Specify the Source, Article 37, Right to Attribution, Citation, Dispositive Norm,