

Abstract

## A Study on Punitive Damages in the Draft of Copyright Act

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In the recent punitive damage has been introducing in the area of industrial property right, while a draft of Copyright Act to introduce punitive damages is made. In fact, pros and cons on introducing punitive damages has become important issues in each legal field and intellectual property is no exception. In particular, recently the China Civil Code legislates punitive damages, and also the Acts in the area of intellectual property actively have introduced punitive damages. On the other hand, Japan still assumes a cautious attitude in this regard. This study deals with history of punitive damages, legislation cases of other countries and additional points to be reviewed if punitive damages would be introduced in the area of copyright. I suppose that it would have a much greater effect in the area of copyright than in industrial property area to the public.

Therefore, I suggest that we should consider introducing punitive damages in the area of copyright just after fully discussing and finding the solutions on the things to be criticized as problems. For example, I think that there are still some things to be taken into consideration on if the term 'wilfulness' is indeed proper as requirement for establishment on punitive damages, and 'flagrancy' should be used instead, if punitive damages should be admitted to non-property rights, if there is a problem on double punishment or not, if multiplier '3' is proper and so on.

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**Keywords**

Draft of Copyright Act, Punitive Damages, Wilfulness, Flagrancy, No Double Punishment