

Abstract

Re-examination of database rights

- Focused on the revision trend of EUcases (CV-Online Latvia v Melons) and EU Database Directive -

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Even in Europe, where database rights(Sui Generis Database Rights) were first created, questions about the utility of these rights have been raised and discussions for revision is going on. We, who benchmarked these European cases at the time, also need to pay attention to the changes in EU. Therefore, in this study, the problems of the database rights were analyzed and future improvement tasks were derived. The results of the study are as follows.

First, the EU is changing the criteria for judging database rights infringement through the CJEU decision. In order to accommodate the innovation of data, the creation of added value through reuse of users and competitors and the possibility of innovation are accepted as the criteria for judging infringement. We also need to take this into account in our “significant investment” and “determination of infringement”.

Second, it is necessary to think about the extension of the exception range of the database right. In Europe, through a separate legislative measure called the Data Act, a wide range of exceptions are being allowed by excluding the database right for databases acquired or created by the use of products or services. This is premised on the premise that the establishment and utilization of databases in various artificial intelligence services, including IoT, is essential anyway, so there is no need to induce investment by

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guaranteeing sui generis rights. As such, in certain cases, it is necessary to review the introduction of regulations that restrict database rights.

Third, like public works, free use of public databases needs to be introduced. Public databases are already trying to create added value through private use through other individual laws. In addition, it is questionable whether the criteria for judging infringement, such as 'significant investment' and 'risk of recovery of investment', can be applied to the act of creating a database funded by the state finances. Therefore, it is necessary to review the introduction of database rights restrictions on public works.

Keywords

The Sui Generis Database Rights, Directive 96/9/EC, Data Act, CV-Online v. Melons(Judgment of 3 June 2021, C-762/19, ECLI:EU:C:2021:434.), The Criteria for Judging Database Rights Infringement