

Abstract

A Study on the Infringement of the Right of Database Producers under the Copyright Act

- Focusing Supreme Court of Korea, Decision of 12 May 2022, 2021Do1533 -

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Considering that excessive protection of the database may lead to a reduction in database use or restrictions on information exchange, which in turn may hinder the development of science and technology based on sharing information, it is necessary to interpret the current copyright law that protects the database by granting exclusive rights so as not to cause excessive restrictions on the distribution and use of information.

Similar concerns have been raised about the issue of information monopoly in the same way as for the EU Database directive which protects databases in a similar way to ours, and the European Court of Justice tries to reduce this risk by narrowly interpreting the scope of the rights of database producers in the British Horseracing Board judgement.

The materials of the database can be protected by misappropriation clause of the Unfair Competition Prevention Act. And the fact that the recent revision of the Unfair Competition Prevention Act has added illegal data acquisition to unfair competition is also a change in the environment to be considered in protecting the rights of database producers.

Recently, Supreme Court of Korea Decision of 12 May 2022 2021Do1533 has ruled on whether data collection by data crawling

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constitutes a violation of the rights of database producers according to Copyright Law Article 93. In this judgment, the Supreme Court presented a clear standard of judgment regarding ‘a substantial part of the contents of Database’ and ‘repeated and systematic coping’ which are the requirements for infringement of the rights of database producers, taking into account the above concerns and changes in the environment.

Keywords

Data collecting, Database, the rights of database producers, Supreme Court of Korea Decision of 12 May 2022 2021Do1533, Repeated and systematic copy, A substantial part of the contents of Database, EU Database Directive, Web Crawling, Copyright Law Article 93, British Horseracing Board judgement