

Abstract

An Analysis of Copyright Cases on the Work Made for Hire Doctrine

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Recently, several drafts of a copyright amendment bill is proposed to grant the initial copyright of a 'Work Made for Hire (WMFH)' to employees who actually created it, rather than to the employer as the Copyright Act provides. The critics of the WMFH provisions of the Copyright Act argue that they severely undermine the 'creator-principle (Schöpferprinzip).'

The purpose of this article is to examine whether the courts have interpreted the WMFH provisions in a manner that severely undermines creator-principle. To achieve this goal, the article explores how the Supreme Court and lower courts interpreted the conditions for the WMFH and the requirements for determining the author (II and III). Then, the article reviews whether the courts have interpreted the WMFH provisions in a way that undermined creator-principle, examining issues related with WMFH, such as determining the authorship of unpublished works, and concludes that the WMFH provisions do not severely undermine the 'creator-principle' (IV).

Keywords

work made for hire (WMFH), creator-principle (Schöpferprinzip), author, made by an employee, initiative of legal person, made within the scope of employment, made public under the name of a legal person

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