

Abstract

**Research on the Recent Case about Music
Copyright Trust Service Provider's Distribution
of Performance Fees**

**- Focusing Supreme Court Decision 2019Da283725
Decided November 17, 2022**

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Recently, the Supreme Court ruled whether the distribution regulations revised by the Korea Music Copyright Association, a music copyright trust service provider, partially restricting the payment of performance fees related to medley songs to member copyright holders and whether the distribution of fees constitutes default or illegal acts under the trust contract.

In this case, it was first questioned whether the so-called “konghoejeon(playing karaoke machine without customer)” in which the owner or employee of karaoke plays the music work on a karaoke machine without accompanying the customer’s singing for the purpose of attracting customers or improving the atmosphere of the business was considered a “performance” under the copyright law, and the Supreme Court ruled that playing the music work contained in the karaoke machine during business hours could be considered a performance under the copyright law regardless of the presence or absence of the customer or his singing.

Against to plaintiffs’ claims that the revision of the distribution regulations and the subsequent distribution of usage fees were illegal or defaulted on the trust contract, the Supreme Court ruled that the Korea Music Copyright Association had some discretion over

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the criteria for distributing performance fees for music works and that it was difficult to conclude that the defendant's revision of the distribution regulations in this case had significantly lost validity in social ideas, and that it was difficult to regard the plaintiffs' interests as essentially infringing on them, considering that some of the usage fees were still distributed to the plaintiffs even after the revision of the distribution regulations.

In this case, the Supreme Court made it meaningful for other copyright trust organizations and copyright holders in that it ruled for the first time whether the revision of the rules on the distribution of user fees, an internal regulation of the Korea Music Copyright Association, was invalid because of the significant unfairness, and whether the revision of the distribution regulations and the subsequent distribution of user fees could be a default or illegal act.

Keywords

Karaoke rule, Konghoejeon (playing karaoke machine without customer), Karaoke machine, Supreme Court Decision 2019Da283725, Medley song, Distribution of performance fees, Performance of music work, Copyright Trust Service Provider, Arranger, Korea Music Copyright Association