An Introduction to (South) Korean Legal Research

Westpac – Honolulu
Oct. 12, 2007
Korea is **Wired!**

Traditional “Nongak” or Farmers’ Dance
Wired!

B-boys, or break dancers, are Korea's newest cultural icons and an emerging entertainment industry force.

World Champion “b-boys” (Breakdancers)
“The most Wired nation in the world ...”
“Seoul is the most wired city on the planet”

“70% of all households subscribe to broadband Internet.”
Broadband IT Korea Vision 2007
The Third Master plan for Informatization Promotion

Broadband Internet Subscriber (per population of 100)

Source: Communication Outlook 2005 (OECD, 2005)
“E-Government”:

The Government has aggressively promoted the provision of government information on the Internet
In a presidential address at the first National Agenda Conference after the inauguration of President Roh Moo-Hyun's Participatory government, President Roh expressed his firm resolve to innovate the public sector and implement e-government hand-in-hand.

"The ways of working in the public sector will be improved and its services reformed...we need to achieve smooth changes in the function and organization of the government...as well as actively promote transparency in public administration through e-governance."

(State Policy Agenda Meeting, 2005, April 17)

### Figure 1: National Policy Objectives of the Participatory Government

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<td>4. Decentralization of Power and Autonomy</td>
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### Top 12 Policy Goals

<table>
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<th>Politics - Administration</th>
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<tbody>
<tr>
<td>1. To Build a Firm Foundation for Peace on the Korean Peninsula</td>
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<td>2. To Ensure a Corruption-Free Society and Improve Government Service</td>
</tr>
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<td>3. To Promote Between National Development and Effort of Power</td>
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<td>4. To Reform Policies Based on Participation and Consolidation</td>
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<th>Economy</th>
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<td>5. To Guarantee Free and Fair Market Order</td>
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<td>6. To Develop South Korea into an Economic Hub of Northeast Asia</td>
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<td>7. To Build a Science and Technology-Oriented Society</td>
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<td>8. To Open a Future for Agricultural and Fishery Community</td>
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<table>
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<tr>
<th>Society - Culture - Gender Equality</th>
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<tbody>
<tr>
<td>9. To Improve Participation Welfare and Quality of Life</td>
</tr>
<tr>
<td>10. To Achieve National Harmony and Gender Equality</td>
</tr>
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<td>11. To Carry out Educational Reform and Build a Knowledge and Culture-based Society</td>
</tr>
<tr>
<td>12. To Build a Labor-Management Relationship for Social Consolidation</td>
</tr>
</tbody>
</table>
Aggressive Goals:

- Innovate Service Delivery
- Enhance Efficiency and Transparency of Public Administration
- Realize Sovereignty of the People

Exemplary Vision:

World’s Best Open E-Government

<table>
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<th>Vision for E-Government</th>
<th>Policy Goals (Government Innovation)</th>
<th>National Goals</th>
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<td></td>
<td>To Ensure a Corruption-free Society and Improve Government Services</td>
<td>1. Democracy with the People</td>
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<td>To Reform Politics Based on Participation and Consolidation</td>
<td>2. A Society of Balanced Development</td>
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<tr>
<td></td>
<td>To Reform Politics Based on Participation and Consolidation</td>
<td>3. Era of Peace and Prosperity in Northeast Asia</td>
</tr>
</tbody>
</table>

1. Innovate Service Delivery
   - Build a Network-based Government
2. Enhance Efficiency and Transparency of Administration
   - Realize a Knowledge-based Government
3. Realize Sovereignty of the People
   - Build a Participatory Government

1. Transparent Public Administration
2. Efficient Public Administration
3. Participatory Public Administration
4. Achieve the level of $20,000 per capita Income
Today’s Assignment

- **English** Sources on Korean Law
- On the Internet
- Emphasis on “Free” Resources
- In 15 Minutes …
- Talk Fast!
My Goals

• To Show You That:
  • It CAN Be Done
  • There ARE Sources Out There
• To Show You My Thought Processes, Methodology
• Repetitive! Boring? Or Positive Reinforcement?!
1st Question: What Does “Free” Mean?

• “Free to anyone”?

• “Free to me”?

• “Free to someone” (so maybe I can get it for free)
What I’ll Cover Today:

• Online Research Tools (General)
• Sources for Specific Types of Information
Where to Start??
ONLINE RESEARCH TOOLS

- Basic Introductions to the Government Structure / Legal System
ONLINE RESEARCH TOOLS

• Basic Introductions to the Government Structure / Legal System
• Portal Sites (Links & Annotations?)
Republic of Korea (South Korea)

Republic of Korea law resource page with links to the Republic of Korea constitution, Republic of Korea government, Republic of Korea law firms, Republic of Korea law, Republic of Korea study abroad, Republic of Korea legal research, Republic of Korea e-commerce law, Republic of Korea court, Republic of Korea bar association, Republic of Korea legal aid corporation, Republic of Korea law schools, Republic of Korea legislature, and Republic of Korea law guide.

- Republic of Korea Law

  - ROK Government's Official Web Portal
    In English, Korean. Services offered by the Korean e-Government.

  - Korea Government
    In English, Japanese, Chinese, French, German, Spanish, Vietnamese and Arabic. Click on "Government" on the left tab. Links to the executive, legislative, and judiciary branches. From Korea.net
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- Laws of the People's Republic of Mongolia (AsianLII)
- Intellectual Property High Court of Japan 2005 (AsianLII)
- Cambodian Law Resources (AsianLII)
- Employment Court of New Zealand Decisions 2007 (NZLII)
- Final Appeal Courts (WorldLII)
- Conference of Chief Justices of Asia and the Pacific Resources 1995 (AsianLII)
- Laws of Japan (AsianLII)
- Laws of the Lao People's Democratic Republic (AsianLII)
- Malaysian Legislation (CommonLII)
- Malaysian Regulations (CommonLII)
- High Court of Malaya Decisions 1969 (CommonLII)
- High Court of Sabah and Sarawak Decisions 2005 (CommonLII)

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Korea (South)
Mongolia
Taiwan (Taipei, China)

Hong Kong, China
Korea (North)
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Republic of Korea

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Databases

Constitutional Court of Korea 1998- (AsianLII)
Constitution of the Republic of Korea 1987 (AsianLII)
Korean Personal Information Dispute Mediation Committee Cases 2002- (WorldLII)

Supreme Court of Korea 2000- (AsianLII)

Catalog and Websearch

Courts & Case-Law
Government
Introductions to Korean Law
Legal Aid

Education
Inter-Government Organisations
Lawyers
Legislation
Catalog and Websearch

Courts & Case-Law
Government
Introductions to Korean Law
Legal Aid
Other Indexes
Research Centres

Education
Inter-Government Organisations
Lawyers
Legislation
Parliament
Treaties & International Agreements

Alternative Dispute Resolution (ADR)
Civil Law
Consumer Protection
Cyberspace
Foreign Investment
Industrial Relations & Labor Law
Insolvency & Bankruptcy
International Law
Ombudsmen
Primary Industry
Resources Law
Taxation, Revenue & Customs

Anti-Corruption
Competition Law
Criminal Law
Environment
Human Rights
Infrastructure
Intellectual Property
Maritime Law
Poverty Reduction
Privacy
Secured Transactions
Telecommunications
Korea

Republic of Korea ("South Korea")

Taehan-min'guk [or Daehan Min-kuk]

CONSTITUTION

- International Constitutional Law: South Korea (Universität Bern Institut für Öffentliches Recht) offers English translation and background notes

EXECUTIVE

- President
- Prime Minister
- Korea Government - in Korean with English
- KOIS: Korean Information Service

JUDICIAL

- Supreme Court
- Constitutional Court
- Ministry of Justice
Welcome to GLIN

The Global Legal Information Network (GLIN) is a public database of official texts of laws, regulations, judicial decisions, and other complementary legal sources contributed by governmental agencies and international organizations. These GLIN members contribute the full texts of their published documents to the database in their original languages. Each document is accompanied by a summary in English and, in many cases in additional languages, plus subject terms selected from the multilingual index to GLIN. All summaries are available to the public, and public access to full texts is also available for most jurisdictions. To begin searching GLIN, use the search fields below.

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Publication written in [Any Language]

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- Bolivia
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Exclude

Publication Date

From: 01 / Jan / 
To: 01 / Jan / 

Subject Terms

Add [ ] Find Subject Terms [ ] AND [ ] OR

Selected Subject Terms
No subject terms currently selected

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Sort by: Jurisdiction, Category, Publication Date [ ] 10 results per page [ ] Show Summary? [ ]
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Find results with

All of the words

Search

Categories

Any Language

Publication written in

Korea, (South) Republic Of

Publication Date

From: 01 / Jan / 

Include

Excluded

To: 01 / Jan / 

Jurisdictions & Dates

Mauritania

Selected Subject Terms

Intellectual property

Display

Sort by: Jurisdiction, Category, Publication Date

Show Summary?

10 results per page

Add

Find Subject Terms

AND

OR

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<td>Copyright Act (GLIN ID 123189)</td>
<td>Korea, (South) Republic Of</td>
<td>Law</td>
<td>Published 18/10/2004</td>
<td>Law</td>
<td>Copyright, Intellectual property, Internet, Performers</td>
<td>Law 7233 of October 8, 2004 amends the Copyright Act. Aims to clarify the right to perform and to use sound records through utilizing (English) internet, etc. by granting performers and manufacturers of sound records the rights to transmit their performances and sound records. (4 articles; pp.22-23)</td>
</tr>
<tr>
<td>Unfair Competition Prevention and Trade Secret Protection Act (GLIN ID 94879)</td>
<td>Korea, (South) Republic Of</td>
<td>Law</td>
<td>Published 20/01/2004</td>
<td>Law</td>
<td>Commerce and industry, Criminal law, Intellectual property, Public registries, Secrecy, Trademarks, Unfair competition</td>
<td>Law 7095 of January 20, 2004 amends the Unfair Competition Prevention and Trade Secret Protection Act. Provides that the activity of (English) registration/keen/transfer/use of a domain name which is the same or similar to the widely recognizable business names or trademarks of</td>
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producers' rights as five years from the production, update, etc. or such databases. (17 articles; pp.17-27)

Title Computer Programs Protection Act (GLIN ID 921800)
Jurisdiction Korea, (South) Republic Of
Category Law
Publication Kwanbo
Published 30/12/2002; Korean
Instrument Class Law
Subject Terms Computer crimes; Computer programs; Computers; Copyright; Intellectual property; Internet; Licenses; Privileges and immunities; Product counterfeiting
Summary Law 6643 of December 30, 2002 amends the Computer Programs Protection Act. Provides that since a computer program, a functional work, indispensable requires its modification or remake given its characteristics, the right to remake a computer program shall also be deemed to be transferred in case of transferring entire copyrights to such program unless stipulated otherwise, and that a program copyright owner may establish exclusive rights for others to reproduce and transmit such program to promote online program distribution; and stipulates requirements, etc. to reduce or exempt online service providers from their liability in connection with copyright infringement made by online service users in case that online service providers stop transmitting the relevant computer program and stop online service users from reproducing them when gaining knowledge that such reproduction/transmission constitutes violation of the rights of program copyright owners, etc. for the purpose that online service providers will engage in more stable operating activities. (19 articles; pp.112-118)

Title Framework Act on Cultural Industry Promotion (GLIN ID 79385)
Jurisdiction Korea, (South) Republic Of
Category Law
Publication Kwanbo
Published 26/01/2002; Korean
Instrument Class Law
Subject Terms Computer programs; Copyright; Cultural property; Culture; Databases; Intellectual property; Internet
Summary Law 6635 of January 26, 2002 amends the Framework Act on Cultural Industry Promotion. Adds digital culture contents related industry to the scope of cultural industry; provides that the Minister of Culture and Tourism may make and notify the standard of digital culture contents upon consultation with chiefs of competent central governments for the purpose of effective development of digital culture contents, quality improvement and securing common use, etc.; and stipulates legal grounds to establish the Korea Culture and Contents Agency to be engaged in accomplishing development and support of applied technology of digital culture contents, etc. in order to efficiently support the development and promotion of cultural industry. (45 articles; 158-170pp.)

Title On-line Digital Contents Industry Development Act. (GLIN ID 80712)
Jurisdiction Korea, (South) Republic Of
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<td>Title</td>
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<td>Instrument Number</td>
<td>8843</td>
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<tr>
<td>GLIN ID</td>
<td>92180</td>
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<tr>
<td>Issuance Date</td>
<td>30/12/2002</td>
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<td>30/12/2002</td>
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**Summary (English)**

Law 8843 of December 30, 2002 amends the Computer Programs Protection Act. Provides that since a computer program, a functional work, indispensably requires its modification or remake given its characteristics, the right to remake a computer program shall also be deemed to be transferred in case of transferring entire copyrights to such program unless stipulated otherwise, and that a program copyright owner may establish exclusive rights for others to reproduce and transmit such program to promote online program distribution; and stipulates requirements, etc. to reduce or exempt online service providers from their liability in connection with copyright infringement made by online service users in case that online service providers stop transmitting the relevant computer program and stop online service users from reproducing them when gaining knowledge that such reproduction/transmission constitutes violation of the rights of program copyright owners, etc. for the purpose that online service providers will engage in more stable operating activities. (19 articles; pp.112-118)

**Full Texts**

Korean

Full Text 1 (599.17kb) [PDF Help]

**Subject Terms**

ONLINE RESEARCH TOOLS

• Basic Introductions to the Government Structure / Legal System
• Portal Sites (Links & Annotations?)
• Korean Legal Research Guides
Korean Legal Research at the University of Washington

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<td>Finding Cases</td>
<td>Finding Other Types</td>
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Prepared by William B. McCloy.

- **Introduction**
  - Information about the Korean Law Collection
  - Viewing and Inputting Korean
  - Notes about Romanization (Transliteration) of Korean

- **Basic Materials for Korean Legal Research**
  - Citation and Romanization

- **Finding Laws**
  - Collections of Laws
    - English
    - Korean
  - Tools For Finding Laws
    - English
Korean Legal Research Guides

“Online”

- Young-Hee Kim, Introduction to Korean Legal Materials, J. of Korean law, Feb. 2002 at 125
  - Available in *Hein Online*
Introduction to Korean Legal Materials

Young-Hee KIM*

Abstract

The purpose of this paper is to provide an introduction to Korean legal materials for researchers in the English language. It is worth noting, however, that a command of the Korean language would still be required to do the most thorough research, as many legal materials are simply not available in the English language. As of today, the most abundant source of Korean legal materials is the Internet, and this is especially so as the Korean government has developed legal databases in furtherance of its drive to promote a national information network. When researching on Korean law, therefore, it is recommended to make use of the official legal sites of Korea such as the ones maintained by the Supreme Court and the Ministry of Legislation. Foreign researchers should be additionally aware that internationally recognized legal websites do not provide much of substantial information on Korean law.
Korean law in the global economy / [edited by] Sang-hyun Song, 1996. (1,500 p.)

- Essays:
  - “Special Problems in Studying Korean Law”
  - “Research in Korean Legal Materials”
  - “Translation and Citation of Korean Legal Materials”
ONLINE RESEARCH TOOLS:
Search Engines (Special Tricks)

• Google Advanced Search
• Google Scholar
• Google Book Search
Search Caveat

Republic of Korea = ROK = South Korea

Vs.

Democratic People’s Republic of Korea = DPRK = North Korea
Republic of Korea (South Korea)
Republic of Korea law resource page with links to the Republic of Korea ... Ministry of Justice, Republic of Korea in English and Korean. Law Firms ...
www.washlaw.edu/forint/asia/sokorea.html - 12k - Cached - Similar pages

Columbia Law : Center for Korean Legal Studies
a talk on the future of the US-Korea Alliance ... Other noteworthy programs offered by the Center are the Korean Law Forum, the Annual Trade Law Seminar, ...
www.law.columbia.edu/center_program/korean_legal - 31k - Cached - Similar pages

Columbia Law : Korean Legal Resources
Journal of Korean Law Journal of Legislation Research (PopChe YonGu) Jurist Justice, The (1959-60) KaJokPop YonGu KomChal KomChal YonGam KongJong Korea ...
www.law.columbia.edu/center_program/korean_legal/Book - 66k - Cached - Similar pages

South Korean Law
International Association of Korean Lawyers · Judicial Research and Training Institute · Korea Law Firms (Martindale-Hubbell).
jurist.law.pitt.edu/World/skorea.htm - 21k - Cached - Similar pages

JURIST - North Korea: North Korean Law, Legal Research, Human Rights
Radios sold in North Korea receive North Korean radio broadcasts only; radios obtained abroad by the general public must be altered to work in a similar ...
jurist.law.pitt.edu/World/northkorea.htm - 24k - Cached - Similar pages
[ More results from jurist.law.pitt.edu ]

HLS Student Organizations: Korean Association of Harvard Law School
The Constitutional Court of the Republic of Korea: Transforming the Jurisprudence of the Vortex? - Find UW Holdings

JM West, D K Yoon - The American Journal of Comparative Law, 1992 - JSTOR

... 1992] CONSTITUTIONAL COURT OF THE REPUBLIC OF KOREA vocate on the Court. ... 34. The Constitutional Court of Korea, Constitutional Justice in Korea 12 (1990). 35. ...

Judicial Review in New Democracies: Constitutional Courts in Asian Cases - all 4 versions »

T Ginsburg - 2003 - books.google.com

... The Constitutional Court of Mongolia 187 Rule by Law or Rule of Law? The Constitutional Court of Korea z06 8Conclusion: Comparing Constitutional Courts 247 ...

Judicial Review and Social Change in the Korean Democratizing Process - Find UW Holdings

K Yang - The American Journal of Comparative Law, 1993 - JSTOR

... 1, Spring 1988, at 183-5. 2, JUDICIAL REVIEW IN KOREA case for review of ... As of the end of April 1991, the Constitutional Court rendered decisions on the ...

The Rule of Law Revival - Find UW Holdings - all 4 versions »

T Carothers - Foreign Affairs, 1998 - foreignaffairs.org

... and Slovak government institutions show contempt for the Constitutional Court’s rulings. ... economic progress, such as Malaysia, Taiwan, South Korea, and even ...
JAMES M. WEST & DAE-KYU YOON*

The Constitutional Court of the Republic of Korea:
Transforming the Jurisprudence of the Vortex?

I. INTRODUCTION

In Korea: The Politics of the Vortex, the late Gregory Henderson summed up the failure of constitutionalism in Korea’s First Republic of the 1950s as follows:

America’s attempt in Korea to build new cohesion around democratic institutions had, in an embattled place and unplanned setting, been rapidly overgrown by autocracy. . . . The institutions of democracy were either disregarded, overridden, corrupted, or turned against themselves; the
Finding a balance: computer software, intellectual property, and the ... - Page 84

The term of protection for software in Korea is 50 years from the time at which the program is created. Taiwan—Taiwan law defines a computer program as a ...

Korea Business: The Portable Encyclopedia for Doing Business With Korea - Page 79
by Christine A. Genzberger - Business & Economics - 1994
A few major computer producers in Korea are making optical disk drives under license to ... Several government programs have been created to promote Korea's ...

The Economics of Intellectual Property in a World Without Frontiers: A Study ... - Page 70
In theory, the endorsement by South Korea of intellectual property in products should mean that corporate copyrights will be protected in South Korea as in ...

Encyclopedia of Microcomputers: Volume 3 - CompuServe to Computer Programs ... - Page 181
by Allen Kent - Computers - 1989
This means that a Japanese computer must have an additional capacity for Kana ...

Indeed, in the case of South Korea, they already have. ... because computer programs have high development costs but low production costs, and can be easily ...
Encyclopedia of Microcomputers: Volume 3 - CompuServe to Computer Programs ... - Page 181
by Allen Kent - Computers - 1989
This means that a Japanese computer must have an additional capacity for Kana ...
Given a computer system which depended upon input by pronunciation, ...

International competition in services: banking building software know-how--. - Page 321
Indeed, in the case of South Korea, they already have. ... because computer programs have high development costs but low production costs, and can be easily ...

International competition in services: banking building software know-how--. - Page 321
Indeed, in the case of South Korea, they already have. ... because computer programs have high development costs but low production costs, and can be easily ...

Intellectual Property for the Internet - Page 251
by Lewis C. Lee
In Korea and Japan, patent protection is exclusively limited to highly ...
Computer programs per se are not eligible for patent protection because they are ...

Computer Safety, Reliability, And Security: 23rd International Conference ... - Page 155
by Maritta, Heisel, Peter, Liggesmeyer, Stefan. Wittmann - Computers - 2004 - 337 pages
... and Computer Science, 373-1, Kusong-dong, Yusong-gu, Taegon, Korea, ...
Finally, we manually refine the FBD programs so that redundant function blocks ...

North Korea in the World Economy - Page 22
by Eun Kwan Choi, Yesook Mentill - Business & Economics - 2003 - 336 pages
These efforts have already resulted in the emergence of North Korea as one of the leading computer software creators. National and local software ...
with high-capacity telecommunications network systems, such as B-ISDN (Broadband Integrated Services Digital Network), will enable the transmission of more data at faster speeds with better quality. It will also raise challenging new questions about copyright laws: How can copyrights be enforced when software and other works of authorship can be copied and transmitted over personal computer (PC) networks with no degradation of copy quality and no means of tracking where or how many copies have been made? With the advent of computer networks and PC communication systems, traditional intellectual property rights (IPR) concepts of “public disclosure,” “publication,” and “reproduction” will seem archaic unless they are reexamined and redefined.

As seen on the Internet’s World Wide Web, multimedia applications are made possible by a wide variety of technologies, such as software and integrated circuits, in order to bundle into one package various formats of text, audio, graphics, and interactive capabilities. Such creations would traditionally be covered by different IP principles, such as copyrights for the creative works of authorship, including the software, and patents for the computer hardware. In Korea and Japan, patent protection is exclusively limited to highly advanced technical creations utilizing the laws of nature, most commonly in the form of a manufactured product or a process. Computer programs per se are not eligible for patent protection because they are considered to be a type of algorithm or mathematical formula, which fails to satisfy the utilization-of-a-law-of-nature requirement. However, with the ever-growing importance, and market value, of software necessary to integrate the various elements of computer hardware found in multimedia applications and network systems, computer programs—incorporated into apparatus or system to perform a predetermined function—have gained some patent recognition.

In Korea, the Computer Program Protection Act grants rights to owners of computer programs that differ little from those of copyright. The problem with copyright protection is that it is very narrowly tailored to fit only the exact expression of the work of authorship, so that an owner of a copyright can prohibit someone only from copying the work as it is fixed, but not the stealing of the main idea of the work. Patent protection, on the other hand, grants to owners the broader right to prohibit the infringement of the idea, as well as the copying or misappropriation of the tangible expression of the idea. This comes from patent’s requirement for novelty. Patent protection extends to prohibit the making or using of similar inventions even if they were independently created.
technical creations utilizing the laws of nature, most commonly in the form of a manufactured product or a process. **Computer programs per se** are not eligible for patent protection because they are considered to be a type of algorithm or mathematical formula, which fails to satisfy the utilization-of-a-law-of-nature requirement. However, with the ever-growing importance, and market value, of software necessary to integrate the various elements of **computer hardware** found in multimedia applications and network systems, **computer programs**—incorporated into an apparatus or system to perform a predetermined function—have gained some patent recognition.

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SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• News (English)
  • Importance of News Sources
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• News (English)
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

- News: Korean Newspapers (archives, etc.)
WATCH THE CONSTRUCTION COMPANIES: KOREA'S CANARY IN THE MINE

by Brendon Carr

Construction accounts for about 6% of Korea's national GDP, which is down significantly since its greater-than-15% share before the IMF Crisis. But when compared to the approximately 3.7% share that construction takes of American GDP, and the widespread impact of a slowdown in US housing starts and mortgage defaults, we can see that the Korea exposure to construction-industry difficulty is relatively pronounced.

That's why we should sit up and take notice when Korea's construction companies start going under on a massive scale (see "Korea's Construction Companies Going Under En masse" at the Dong-A Ilbo on September 13).

On September 11, Dongdo Construction, developer of the "Mileo Dream" apartment complex, defaulted on W6.1 billion (about US$6.6 million) worth of promissory notes and will be thrown into bankruptcy. According to the paper, Dongdo joined Sichang, Samick Shinil, Sejong Construction, and three other smaller construction companies that have gone bankrupt lately.

Never heard of them? (I must admit most of the names are unfamiliar to me. Other than Samick and Shinil, I'd known of these other construction companies.) Perhaps this is because they are regional enterprises whose activities take place outside of Seoul. Dongdo is reported to be "representative of North Cholla Province" (Konglun for "leading construction company in North Cholla Province"), and the others are cited by the paper as leaders in their respective regions.

Could there be a connection between the disastrous Roh housing policy and the large quantity of unsold apartments in the provinces? And what will this mean for "The Economy"?

Gosh, I'm no economist, but it seems that if the construction companies build apartments they can't sell, they may have trouble paying for the stuff they bought to make those apartments. This has knock-on effects for the creditors of the construction companies. The people who sold the stuff that went into building the apartments, the workers who labored to build the apartments, the banks which lent them the project-financing money, and the families who put up their life's savings in order to afford the deposit on the few apartments which were pre-sold at median prices which may be unprecedented in the world when compared to income. Perhaps most worsome—what will happen to the lawns?
The pain is just starting. If things start spreading to Seoul there’s a strong possibility the next President of the Republic of Korea will take office in the midst of a real crisis.

So what happens when a Korean company goes bankrupt? If you’re an unsecured creditor, generally you lose everything. Our experience with bankruptcy practice in Korea says that a really lucky unsecured creditor might recover 2-3% of the credit, but even for that paltry recovery there is a long wait. Court reorganizations typically adopt a 10-year payout plan.

**UPDATE 9/16.** Uh oh. The government denies that construction-company bankruptcies pose any kind of risk to the financial sector, and promises to take “appropriate steps, if necessary” to remediate problems. No thank you! It’s the remedial steps (to cool down property-price increases) that got us in this situation.

At first I wasn’t sure that I was right about the trouble brewing, but now that the government denies a problem I know that it’s really quite serious already.

**UPDATE 9/17.** Today I spoke to a friend in investment banking who says his firm has already started seeing inquiries about funding for Korean construction companies. As his bank is one of the large ones I would imagine these are larger Korean construction companies, and not the Dongdoss of the world. But the Chosun Ilbo’s English edition blamed it all on the US sub-prime housing loan market and a global credit crunch.
Election Law, Roh, and the Constitutional Court - Here we go again

We've been here before. President Roh takes sides about the upcoming election, the election commission intervenes on the basis that he violated the duty of "political neutrality" during elections, and now Roh wants the Constitutional Court to rule on the constitutionality of the law (see here). This is the legal issue that got Roh in impeachment troubles a few years ago (see my previous posts here and here), and it looks like they are rehashing the debate.

Fascinating to observe. The "political neutrality" requirement, to begin with, is a bit startling (imagine the Federal Election Committee telling George W. Bush he cannot campaign for Republican candidates). The public reaction, too, is of interest -- accusations of "insubordination" and "disrespect" for the rule of law are common, and his Constitutional petition, too, seems to be decided by many for being, well, not very.

About Me

I am an Associate Professor of Law at Fordham University School of Law. I (sometimes) use this site to record my thoughts on comparative constitutional law and Korean law. I post irregularly and infrequently.

Email Me

Links

Google News

Previous Posts

Election Law, Roh, and the Constitutional Court - ...
Capital Move Round Two: Constitutional Court
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• Laws, Regulations
  • Gov't websites: agencies
    • National Assembly
Article 1 (Purpose)
The purpose of this Act is to provide for matters concerning control over the immigration of all nationals and foreigners who enter or depart from the Republic of Korea, control over the admission of foreigners who stay in the Republic of Korea, and the procedure for the recognition of refugees.

Article 2 (Definitions)
For the purpose of this Act,
1. the term "national" means a national of the Republic of Korea;
2. the term "foreigner" means any person who has no nationality of the Republic of Korea;
3. the term "refugee" means a person to whom the Convention relating to the Status of Refugees (hereinafter referred to as the "Refugee Agreement") is applied under Article 1 of the Refugee Agreement and Article 1 of the Protocol relating to the Status of Refugees;
4. the term "passport" means a passport or refugee travel certificate issued by the Government of the Republic of Korea, any foreign government or competent international organization, or any other certificate equal to a passport which the Government of the Republic of Korea acknowledges valid;
5. the term "seaman's book" means a document certifying that the person holding it is a seaman, which is issued by the Government of the Republic of Korea or a foreign government, and is corresponding to a passport.
6. the term "entry and departure port" means a harbor, airport or other place in the Republic of Korea, through which any person may enter or depart from the Republic of Korea, and which is subject to the laws of the Republic of Korea.
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

- Laws, Regulations
  - Gov't websites: agencies
    - National Assembly
    - Government Agencies: Topical Regs
Laws & Regulations

- Constitution of the Republic of Korea
- National Assembly Act
- Ministry of Justice
  - Immigration Law
- Ministry of Legislation
  - Economic Laws
- Ministry of Finance & Economy
  - The Foreign Investment Promotion Act
  - The Foreign Exchange Transaction Act
  - Presidential Decree on Preferential Tariff for Least-Developed Countries
- Korea Customs Service
  - Customs Laws and Related Laws
- National Statistical Office: Statistical Act
- Ministry of Foreign Affairs & Trade
  - Domestic Procedure for Treaty-Making
  - The Antarctic Treaty System and the Republic of Korea
  - Reference Sites
- Related Acts

- Korea Fair Trade Commission
  - Monopoly Regulation & Fair Trade Act, Adhesion Contracts Act, etc.
  - Enforcement Decrees

- Korea Consumer Protection Board
  - Consumer Protection Act
  - Enforcement Decree of the Consumer Protection Act

- Financial Supervisory Commission
  - Financial Laws & Decrees

- Korean Intellectual Property Office
  - Industrial Property Acts

- Ministry of Construction and Transportation
  - Guide to Foreigner's Acquisition of Real Property

- Ministry of Information & Communication
  - Rules & Regulations

- Korea Food & Drug Administration
  - Inspection Guidelines for Imported Foods, etc.

- Ministry of Labor
  - Labor Laws

- Ministry of Gender Equality & Family
  - Legal Information
Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof (2005)
Women’s Development Act (2005)
Revision of “Political Parties Act” (March 2004)
Revision of “Political Funds Act” (March 2004)
Act to Develop and Support Women in Science and Technology (2002)
Women’s Development Act: Agriculture and Fisheries (2001)
Gender Discrimination Prevention and Relief Act (1999)
Women’s Development Act (1995)
Act on the Punishment of Sexual Crimes and Protection of Victims thereof (1994)
Infant Care Act (1991)
Woman’s suffrage (1948)
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• Laws, Regulations
  • Gov't websites: agencies
    • National Assembly
    • Government Agencies: Topical Regs
    • Ministry of Government Legislation (MOLEG)
      • Responsible for Compilation & Dissemination of All Laws
    • KLRI - Korea Legislation Research Institute
### Economic Laws on Foreign Investment in Korea

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SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• Laws, Regulations
  • Gov't websites: agencies
  • Database: *Statutes of the Republic of Korea*
COMPUTER PROGRAMS PROTECTION ACT

Wholly Amended by Act No.6233; Jan. 28, 2000
Amended by Act No.6367; Jan. 16, 2001
Act No.6843; Dec.30, 2002

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)
The purpose of this Act is to contribute to the sound development of the national economy by protecting the author’s rights to computer program works and other rights to the computer program works, encouraging fair use of computer program works and promoting relevant industries and technologies. <Amended by Act No. 6843; Dec. 30, 2002>

Article 2 (Definitions)
For the purpose of this Act, the definitions of terms shall be as follows: <Amended by Act No. 6367; Jan. 18, 2001; Act No. 6843; Dec. 30, 2002>

1. The term “computer program works” means creative works expressed as a series of instructions and commands used directly or indirectly in an apparatus having data processing capacity such as a computer, etc. (hereinafter referred to as a “computer”) for the purpose of obtaining a certain result.
CONTENTS OF STATUTES OF THE REPUBLIC OF KOREA

1 - Constitution

- Constitution of the Republic of Korea
- Territorial Sea and Contiguous Zone Act
- Enforcement Decree of the Territorial Sea and Contiguous Zone Act
- Exclusive Economic Zone Act
- Act on the Promotion of Acts and Decrees, etc.
- Petition Act
- Constitutional Court Act
- Act on the Democratic and Peaceful Unification Advisory Council
- Inter-Korea Exchange and Cooperation Act
- Enforcement Decree of the Inter-Korea Exchange and Cooperation Act
- Inter-Korea Cooperation Fund Act
- Enforcement Decree of the Inter-Korea Cooperation Fund Act
- Act on the Protection and Settlement Support of Residents Escaping from North Korea
- Unification Education Support Act
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• Laws, Regulations
  • Gov't websites: agencies
  • Statutes of the Republic of Korea
  • NGO websites
Introduction of laws and policies for women’s human rights and prevention of prostitution

Act on the Punishment of Sexual Crimes & Protection

The Act is to prevent sexual crimes, to protect victims of sexual crimes, and to stipulate provisions of punishment to the criminals and its procedures. In October 2006, the Act was revised to clarify the criteria for arrest and for case-managing procedures, and also to introduce new provisions including specialized investigation for victims of sexual crimes.

Prevention of Domestic Violence Victim

The Act was enacted in 2001 in order to prevent domestic violence and also to protect and support victims of domestic violence. Its revision in January 2007 stipulates provisions for protection facilities where victims can stay for up to 2 years, and for protection facilities for foreign victims.

Enforcement Ordinance On The Prevention Of Domestic Violence And Victim Protection Act

Enforcement Regulation of the Prevention of Domestic Violence and Victim Protection Act

Framework Act on Women’s Development

This Act was enacted with the view to address issues on gender policy for strengthening the status of women and promoting gender equality by improving practices in all sectors of society to remove vestiges of discrimination. The
ACT ON THE PUNISHMENT OF SEXUAL CRIMES & PROTECT

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)
The purpose of this Act is to contribute to an extension of human rights of citizens, and an establishment of healthy social order, by preventing any sexual crimes, protecting the victims thereof, and providing for any special cases concerning the punishment of sexual crimes and the procedure thereof.

Article 2 (Definitions)
(1) For the purpose of this Act, the term "sexual crimes" means a crime falling under any of the following subparagraphs:

1. Crimes as prescribed in Articles 242, 243, 244 and 245 of crimes concerning sexual morals listed in Chapter 22 of the Criminal Act;

2. Crimes as prescribed in Articles 288, 292 limited to a crime delivering and...
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

• Caselaw
### Private Law

#### Decisions

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**E-BOOK READER DOWNLOAD INSTRUCTIONS**

NEW!

1. Click the Download Microsoft Reader link logo.
Supreme Court Decision 2005Da44138 delivered on March 29, 2007 [Suspension of Copyright Infringement, etc.]* First draft

[Main Issues]

[1] The part to be used for comparison in judging whether there is actual similarity between a translated work and the original work in order to judge whether a translated work violates a copyright or not
[2] Whether expressions not protected by the Copyright Act shall be taken into consideration in judging whether a target work and a translated work have actual similarities or not (negative)
[3] The elements required for the recognition of existence of actual similarities between a target work and a translated work on the ground of use of similar words or phrases
[4] The legal nature of the exclusive right to publish a translation, and if the work written by a third party is not deemed as a translation of the original copyrighted work, whether the holder of the exclusive right to translation and publication needs to seek the suspension of infringement against that third party on behalf of the copyright holder (negative)

[Summary of Decision]

[1] The creativity of a translated work lies in the part that has the creativity and the mental effort made by the translator into selecting and arranging proper words and phrases to express the original work into a language with a different linguistic system, and into deciding the length and the order of the sentences, loyalty to the original work, writing style and nuances, and the development of events, specific storyline, personality and relationship of the characters as well as the backdrop shall not be deemed to be creative expressions of the translated work even though they shall be deemed to be creative expressions of the original work, so in judging whether there is actual similarity between a translated work and the original work in order to judge whether the translation copyright has been violated or not, only the above creative expressions of the translated work shall be used for comparison.

[2] Whether the target work has been written based upon an existing work or not and whether both works have actual similarities or not are two separate judgments to make, while the former, unlike the latter, shall take into consideration the similarities in not only expressions protected by the Copyright Act but also expressions not protected by the Copyright Act, so in judging if the target children’s book has been written based upon the novel in this case, it is true that the similarities in expressions not protected by the Copyright Act shall be taken into consideration, but that does not mean that similarities in the above parts shall be taken into consideration in judging if both works have actual similarities or not.

[3] Even though words or phrases partly similar to the words or phrases that make up individual translated expressions in a translated work are found in the target children’s book, that does not mean that the novel in this case and the target children’s book have actual similarities or that the translation copyright on the novel in this case has been violated. In order to recognize such actual similarities, it shall need to be recognized that because similar words or phrases are used in the target children’s book, the creative characteristics of the novel in this case as a translated work have reached the level that can be perceived in the target children’s book.
Constitutional Review of Article 16(1) of Sound Records, video products, and Game Software Act
Case No.: 2004Hun-Ka8
A person who desires to import sound records (including their originals; hereinafter referred to as "foreign sound records"), video products (including their originals, hereinafter referred to as "foreign video products"), or game software (hereinafter referred to as "foreign game software") that are...

Confiscation of Illegal Video Game Software Case
Case No.: 2000Hun-Ka12
...to confiscate and destroy illegal game software. A background of the case: The former Sound Records, Video Products, and Game Software Act requires prior rating of the contents before distribution or offering to the public for viewing or amusement. If a competent authority discovers video game software that has not been rated or contains...

Internet Filtering for Protection of Minors
Case No.: 2001Hun-Ma894
...individual information users install the relevant filtering software on...
Constitutional Review of Article 16(1) of Sound Records, Video Products, and Game Software Act

(17-1 KCCR 51, 2004 Hun-Ka8, February 3, 2005)

In this case, the Constitutional Court ruled that the relevant provisions of the Sound Records, Video Products, and Game Software Act requiring those wishing to import foreign video materials to obtain import recommendation by the Korea Media Rating Board constitute a form of censorship and therefore are unconstitutional.

Background of the Case

The Sound Records, Video Products, and Game Software Act, for the purpose of restricting import of obscene or violent foreign video materials, requires each import of foreign materials to be first recommended by the Korea Media Rating Board at the penalty of criminal punishment. The petitioners for constitutional review imported and distributed foreign video materials without first obtaining the Korea Media Rating Board’s recommendation, and were indicted and...
SOURCES FOR SPECIFIC TYPES OF INFORMATION:

- Journal Articles (English)
- The Usual Places:
  - LexisNexis/Westlaw
  - LegalTrac ~ Legal Resource Index
  - Google Scholar
  - Hein Online
    - *Journal of Korean Law*
    - *Korean Journal of International and Comparative Law*
Challenges & Pitfalls

- Translation
  - Not everything is translated!
  - Websites not really bilingual ...
  - Translation Variants: *Penal Act, Criminal Code, Criminal Law*

- Automatic Translation Example: 형법 (Hyŏngpŏp) =
  - “Big Brother Law” (兄法), vs.
  - “Criminal Law” (刑法)?
Challenges & Pitfalls

• Romanization
  • President Roh Moo-Hyun
  • President No Mu-hyeon
  • President No Mu-hyun
  • President No Mu-hyon
Korean Legal Research Guides

• Korean Legal Research at the University of Washington (Bill McCloy)
• Introduction to Korean legal materials (Young-Hee Kim)
• Korean law in the global economy (Sang-hyun Song)
감사합니다!
THANK YOU!