

KOREA

ANNUAL REPORT TO THE IFLA COPYRIGHT AND LEGAL MATTERS
COMMITTEE

2005–2006

1. Legislation Reform Concerning Regulation on Infringing Acts of Online Copyrights.” enacted in Jan 16, 2005.

Copyright law was revised in order to clearly define the rights of use by granting transmitting authority of performance and phonograph record to performers and disc producers.

– Targeted at blog, personal webspace, mini–homepage or club cafe. Those that are not clear in copyrights such as streaming links and various music files(mp3, wma...etc, file forms are not concerned).

2. National Assembly is pending some revising legislative bills of Copyrights law proposed by a member of National Assembly sal(Dec, 2005)

Main contents: First, online service offerers, whose main purpose is to copy and transmit contents, should assume the responsibility to take protective technical action on concerned contents.

Second, in situations that may damage order of use such as copyrights, the minister of the Ministry of Culture and Tourism may demand to delete or stop publishing contents,

Third, it is possible to give criminal penalty to those who copy and transmit contents repetitively for their own benefits even without receiving requests from those who hold copyrights.

3. National Digital Library and Library Compensation System

National Library of Korea has been promoting a Digital Library Project since 1997 through screening main data in terms of educational and informational value. Now in 2005, we have built original information DB with about 330,000books. Concerning 210,000books whose copyrights have been exterminated or whose copyrights were approved to be used can be accessed through National Digital Library's(www.dlibrary.go.kr) and Digital Library of National Library of Korea's(www.nl.go.kr) original DB search.

However, according to act28 item5 of Copyrights Law that was revised in 2003, if one copies or transmits original DB openly, the minister of the Ministry of Culture and Tourism may set a standard to deposit or pay reimbursement to those who hold copyrights. Therefore, among 120,000books that have valid copyrights under National Library of Korea's original DB, Korea Reprographic and Transmission Rights Center plays a key role in receiving reimbursement from the library and distribute to individual producers.

4. Library Reimbursement Standard Provision

- Applicable period : 2006.1.1~2006.12.31
- Those who are eligible for reimbursement : according to Copyrights Law act28 item1 number1, when books are copied including those in digital forms (books that have been copied or transmitted from other libraries), according to act28 item3, when contents that are not for sale or contents that have been issued over five years are transmitted to other libraries to the public.

5. Library Related Copyrights Exemption Clause and FTA

5.1 "Only when books are issued in printing forms for over five years, library can digitalize them without obtaining approval from those who hold copyrights. Act28 of national Copyrights Law regulates library from providing online service through networking to the public by digitalizing printed materials as mentioned above. Yet, such Copyright

Exemption Clause is likely to be a critical point during Korea–US FTA. Reports from United State Trade Representative(USTR) states that concerning Korean Digital Library exemption clause, when the library digitalises materials without obtaining approval from those who hold copyrights, it should give at least 30days notice to a rightful person. However, largely because the majority of contents that the library is trying to digitalize are difficult to find their original sources, the costs and time in finding sources of rightful people will be huge. Hence, digitalizing library data appears to be more difficult in the future.

5.2 Concerning Opinion on Definition of Temporary Piracy

When using computer programmed or digitalized contents through a computer, or researching, reading or transmitting them through the Internet, those contents are temporarily saved in Random Access Memory(RAM). Unlike storing in hard disk and auxiliary memory units, such storage in RAM does not save the contents permanently, but when the computer is turned off the contents disappear. In this respect, it is called temporary reproduction or temporary saving.

American Copyrights do not clearly regulate temporary reproduction, yet, the government of the United States have continuously demanded Korea over a few years to put regulation on temporary reproduction as if it is viewed as piracy.