

Copyright Act

[Enforced on March 15, 2012] [Law No. 11110. Amended on December 2, 2011]

CHAPTER 1. GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to protect the rights of authors and the neighboring rights and to promote the fair use of works in order to contribute to the improvement and development of the culture industry and related industries. <Amended on April 22, 2009>

Article 2 (Definitions)

The terms used in this Act shall hereinafter have the following meanings <Amended on April 22, 2009; June 30, 2011; December 2, 2011>:

1. "Works" shall mean the creative productions in which human ideas or emotions are expressed;
2. "Authors" shall mean the persons who create works;
3. "Public performance" shall mean the presentation of a work, or a performance, a phonogram, or a broadcast to the public by acting, musical performance, singing, narrating, reciting, screening, playing, or other means, and shall include transmissions (excluding interactive transmissions) that are made in a connected place under a same person's ownership/possession;
4. "Performers" shall mean the persons who express a work by acting, dancing, musical performance, singing, narrating, reciting, or other artistic means, or who express something other than a work by a similar method including the persons who conduct, direct, or supervise performances;
5. "Phonograms" shall mean sounds (which refers to voice or acoustic sound effect herein; the same hereinafter) fixed in a tangible medium (excluding the fixation of sounds incorporated with visual images));
6. "Producers of Phonogram" shall mean the persons who plan and assume responsibility for the fixation of sound on phonograms;
7. "Public transmission" shall mean transmission of a work, a performance, a phonogram, a broadcast, or a database (hereinafter referred to as "works, etc.") or making such a work available to the public by wire or wireless means intended for reception or access by the public;
8. "Broadcasting" shall mean, among public transmission, the transmission of sounds, images, or sounds and images intended for simultaneous reception by the public;
- 8*bis*. "Encrypted broadcasting signals" shall mean signals electronically encrypted by broadcasting organizations or the persons who obtained the consent thereof to prevent or restrain the reception of broadcasting (limited to broadcasting by means of wire and satellite communications) without legitimate authority;
9. "Broadcasting organizations" shall mean the persons engaged in the broadcasting business;
10. "Interactive transmission" shall mean, among public transmission, making works, etc. available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, and shall include the transmissions that occur thereby;
11. "Digital sound transmission" shall mean, among public transmission, the transmission of sounds in a digital format which is commenced upon the request of members of the public intended for simultaneous reception by the public, and shall exclude interactive transmissions;
12. "Digital sound transmission organizations" shall mean the persons engaged in the digital sound transmission business;
13. "Cinematographic works" shall mean the creative productions in which a series of images (regardless of whether or not they are accompanied by sound) are collected, in which can be played by mechanical or electronic devices, and in which can be seen or both seen and heard;
14. "Producers of cinematographic works" shall mean the persons who plan and take responsibility for the production of cinematographic works;
15. "Works of applied art" shall mean artistic works that may be reproduced in the same shape on

articles and whose originality is distinguishable from the articles used, and shall include designs, etc.;

16. "Computer program works" shall mean creative production expressed as a series of statements or instructions used directly or indirectly in a computer or other device (hereinafter referred to as "computer") that has information processing capacity in order to obtain a certain result;

17. "Compilation" shall mean a collection of works or symbols, letters, sounds, images, or data in other forms (hereinafter referred to as "materials"), and shall include databases;

18. "Compilation works" shall mean compilations which have a creative nature in terms of selection, arrangement or composition of its materials;

19. "Databases" shall mean compilations of which materials are arranged or composed in a systematic way, and such materials are individually accessible or searchable;

20. "Database producers" shall mean the persons who make a considerable investment in human or material resources for the production of a database, or renewal, verification, or supplementation (hereinafter referred to as "renewal, etc.") of its subject matters;

21. "Joint works" shall mean works created jointly by two or more persons whose respective contributions cannot be separately exploited;

22. "Reproduction" shall mean the temporary or permanent fixation in a tangible medium or making a copy or copies by means of printing, photographing, duplication, sound or visual recording, or by other means; in the case of architectural works, it shall include construction according to the models or architectural plans for the architecture;

23. "Distribution" shall mean the transfer of ownership or rental of original works, etc. or their copies to the public, whether with or without payment;

24. "Publication" shall mean the reproduction and distribution of works or phonograms to meet public demand;

25. "Making public" shall mean to release a work to the public by means of performance, public transmission, exhibition, or other means and to publish a work;

26. "Copyright trust services" shall mean a line of business who are entrusted the rights from the persons who hold the rights of owners of authors' property rights, exclusive rights of publication, publication rights, neighboring rights, or the rights of database producers, and continuously manages the rights on behalf of the persons, and shall include agents who act comprehensively concerning the use of work;

27. "Copyright agency or brokerage services" shall mean a line of business who act as an agent or a broker on behalf of the persons who hold the rights of owners of authors' property rights, exclusive rights of publication, publication rights, neighboring rights, or the rights of database with regard to the use of the rights.;

28. "Technological protection measures" shall mean:

a. Technological measures by a rights holder or a person who has obtained consent from such a rights holder to effectively prevent or restrict access to works, etc. protected under this Act with respect to the exercise of copyrights and other rights protected according to this Act;

b. Technological measures by a rights holder or a person who has obtained consent from such a rights holder to effectively prevent or restrict the infringement on copyrights and other rights protected according to this Act;

29. "Right management information" shall mean:

a. Information for the identification of works, etc.;

b. Information for the identification of holders of copyrights or other rights protected according to this Act; and

c. Information related to the manner and conditions of the use of works, etc.;

or numbers or symbols representing such information, each of which is attached to the original or a copy of a work, etc. which is protected copyrights or other rights according to this Act or is accompanied by a performance, implementation, or public transmission thereof.

30. "Online service providers" shall mean:

a. The persons who transmit, designate a route, or provide connection to works, etc. chosen by users, in order to deliver them through information and telecommunications networks (which refer to

such information and communications networks as provided in Article 2.1.1 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.; hereinafter the same shall apply), between the points designated by the users, without modification of the content; or

b. The persons who provide services that allow users to reproduce or interactively transmit works, etc. by accessing to the information and communications networks or through the information and telecommunications networks, or provide or operate facilities for those purposes.

31. "Work made for hire" shall mean works made by an employee of a legal person, an organization, or other employer (hereinafter referred to as "legal person, etc.") during the course of his/her duties, and on the initiative of a legal person, etc.;

32. "The public" shall mean a large number of unspecified persons (including a large number of specific persons);

33. "Authentication" shall mean to verify justifiable rights holders for authorization of use of works, etc.;

34. "Decompilation of program codes" shall mean the reproduction or conversion of the codes of computer program works in order to obtain necessary information for the compatibility of independently-created computer program works with other computer programs;

35. "Labels" shall mean signs affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany to tangible copies, packages, or documents of works, etc. in order to indicate that such copies have been produced in accordance with a legitimate authority;

36. "Movie theaters, etc." shall mean movie theaters, premier theaters, and other venues where cinematographic works are presented to the public with admission thereto controlled by the presenter.

Article 2bis (Establishment of Policies for Copyright Protection, etc.)

(1) The Minister of Culture, Sports and Tourism may establish and enforce policies under each of the following Subparagraphs to achieve the purpose of this Act:

1. Matters about basic policies to create an environment conducive to the protection of copyrights and the fair use of works;

2. Matters about education and publicity to spread awareness of copyrights; and

3. Matters about policies for the right management information and technological protection measures of works, etc.

(2) The necessary matters for the establishment and enforcement of policies pursuant to Paragraph (1) shall be determined by Presidential Decree.

[\[This article added on April 22, 2009\]](#)

Article 3 (Works by Foreign Nationals)

(1) Works by foreign nationals shall be protected in accordance with the treaties to which the Republic of Korea has acceded to or concluded.

(2) Works by foreign nationals who permanently reside in the Republic of Korea (including stateless persons and the foreign legal persons having their principal offices in the Republic of Korea) and foreign nationals' works which are first made public in the Republic of Korea (including works made public in the Republic of Korea within thirty days after the day the works made public in a foreign country) shall be protected under this Act.

(3) Even when foreign nationals' works (excluding foreign nationals who permanently reside in the Republic of Korea and stateless persons; hereinafter the same shall apply in this article) are to be protected in accordance with Paragraphs (1) and (2), where the foreign country does not protect the works of the nationals of the Republic of Korea, their protection in accordance with treaties and this Act may be correspondingly restricted. [<Amended on June 30, 2011>](#)

(4) Even when foreign nationals' works are to be protected in accordance with Paragraphs (1) and (2), where the term of protection has expired in that foreign country, the term of protection under this Act shall not be recognized. [<Added on June 30, 2011>](#)

CHAPTER 2. COPYRIGHT

SECTION 1. WORKS

Article 4 (Examples of Works, etc.)

(1) The following shall be the examples of works referred to in this Act:

1. Novels, poems, theses, addresses, speeches, plays, and other literary works;
2. Musical works;
3. Dramas, choreographies, entertainments in dumb show and other dramatic works;
4. Paintings, calligraphies, sculptures, engravings, crafts, works of applied art, and other artistic works;
5. Architectural structures, architectural models, architectural plans, and other architectural works;
6. Photographic works (including those produced by similar methods);
7. Cinematographic works;
8. Maps, charts, plans, rough maps, models, and other diagrammatic works; and
9. Computer program works.

(2) Deleted <April 22, 2009>

Article 5 (Derivative Work)

(1) A creative work produced by means of translation, arrangement, alteration, dramatization, cinematization, etc. of an original work (hereinafter referred to as a “derivative work”) shall be protected as an independent work.

(2) The protection of a derivative work shall not affect the rights of the author of the original work.

Article 6 (Compilation Work)

(1) Compilation work shall be protected as independent work.

(2) The protection of a compilation work shall not affect the copyright of the materials constituting the compilation work and other rights protected pursuant to this Act.

Article 7 (Work Not Protected)

No work which falls under any of the following subparagraphs shall be protected under this Act:

1. Constitutions, laws, treaties, decrees, ordinances, and rules;
2. Notices, public notifications, directions, and others similar thereto issued by the national or local government;
3. Judgments, decisions, orders, or rulings of courts, as well as resolutions and decisions, etc. made by the administrative appeals procedures or other similar procedures;
4. Compilations or translations of those as referred to in subparagraphs (1) to (3) which are produced by the national or local government; and
5. Current news reports which deliver simple facts.

SECTION 2. AUTHORS

Article 8 (Presumption of Authorship, etc.)

(1) Any person who falls under any of the following subparagraphs shall be presumed to hold the copyright of the work as the author: <Amended on June 30, 2011>

1. A person whose real name or well-known pseudonym (which refers to a stage name, a pen name,

abbreviation, etc.; hereinafter the same shall apply.) is indicated in the customary manner on an original work or copy of a work; and

2. A person whose real name or well-known pseudonym is indicated as the author's name where the work is publicly performed or publicly transmitted.

(2) If a work is void of an indication of the author which falls under any of subparagraphs of paragraph (1), the person who is indicated as the publisher or public performer, or a person who is making the work public shall be presumed to hold the copyright. <Amended on April 22, 2009>

Article 9 (Author of a Work for hire)

The author of a work for hire which is made public under the name of a juridical person, etc. shall be that juridical person, etc., unless otherwise stipulated in a contract, or work regulation, etc.: *Provided*, That being made public is not required in case of a computer program work (hereinafter referred to as "programs"). <Amended on April 22, 2009>

Article 10 (Copyright)

(1) The author shall have the rights pursuant to Articles 11 to 13 (hereinafter referred to as "author's moral rights") and the rights pursuant to Articles 16 to 22 (hereinafter referred to as "author's property rights").

(2) The copyright shall take effect from the time work is created, and shall not be subject to fulfillment of any procedures or formalities.

SECTION 3. AUTHOR'S MORAL RIGHTS

Article 11 (Right to Make Public)

(1) The author shall have the right to decide whether or not to make his/her work public.

(2) If an author has transferred his/her property rights of a work not yet made public pursuant to Article 45, authorized the use of a work pursuant to Article 46, established the exclusive rights of publication pursuant to Article 57, or established publication rights pursuant to Article 63, he/she shall be presumed to have given the other party his/her consent to make it public. <Amended on April 22, 2009; December 2, 2011>

(3) If an author has transferred ownership of an original of his/her work of art, architectural work, or photographic work (hereinafter referred to as "work of art, etc.") not yet made public, he/she shall be presumed to have given the other party his/her consent to make the original public in the manner of exhibition.

(4) If a derivative work or compilation work, made with the consent of the author, has been made public its original shall be also considered to have been made public.

(5) If an author donates his/her work not yet made public to libraries, etc. under Article 31, it shall be presumed that he/she consents to make it public at the time the donation occurs unless any intention is expressed otherwise. <Added on December 2, 2011>

Article 12 (Right of Paternity)

(1) The author shall have the right to indicate his/her real name or pseudonym on an original work or its copy, or on a medium by which his/her work is made public.

(2) Unless any specific intention of the author is expressed, a person using his/her work shall indicate his/her real name or pseudonym in the same manner as, the author has indicated it: *Provided*, That the foregoing shall not be applied in an unavoidable case in light of the nature of a work, or the purpose and manner of its use etc.

Article 13 (Right of Integrity)

(1) The author shall have the right to maintain the integrity of the content, form, and title of his/her work.

(2) The author shall not raise an objection to a modification falling under any of the following subparagraphs: *Provided*, That the foregoing shall not be applied to the modification of substantial contents. [<Amended on April 22, 2009>](#):

1. In the case where a work is used pursuant to Article 25, a modification of expression within the limits as deemed unavoidable for the purpose of school education;
2. Extension, rebuilding, or other alteration of architectural structure;
3. Modification within the limits as deemed necessary to enable programs that can be used only on specific computers to be used on other computers;
4. Modification within the limits as deemed necessary to use programs more effectively on specific computers; and
5. Other modifications within the limits as deemed unavoidable in light of the nature of a work, and the purpose and manner of its use etc.

Article 14 (Inalienability of Author's Moral Rights)

(1) Author's moral rights shall belong exclusively to the author.

(2) No person who uses a work after the death of the author shall commit an act which would constitute an infringement of the author's moral rights if he/she were alive: *Provided*, That the foregoing shall not be applied when the such act is deemed to have not defamed the honor of the author in the light of the nature and extent of the act in view of social norms.

Article 15 (Author's Moral Rights to Joint Work)

(1) Author's moral rights to a joint work may not be exercised without the unanimous agreement of all the authors concerned. In this case, each of the authors may not in bad faith prevent the agreement from being reached.

(2) Authors of a joint work may designate one of themselves as a representative in the exercise of their moral rights.

(3) Limitation imposed on the right to representation pursuant to paragraph (2) shall not be effective against a bona fide third party.

SECTION 4. AUTHOR'S PROPERTY RIGHTS

SUBSECTION 1. TYPES OF AUTHOR'S PROPERTY RIGHTS

Article 16 (Right of Reproduction)

The author shall have the right to reproduce his/her work.

Article 17 (Right of Public Performance)

The author shall have the right to perform his/her work publicly.

Article 18 (Right of Public Transmission)

The author shall have the right to transmit his/her work to the public.

Article 19 (Right of Exhibition)

The author shall have the right to exhibit the original or the copy of his/her work of art, etc.

Article 20 (Right of Distribution)

The author shall have the right to distribute the original or the copy of his/her work: *Provided*, That the foregoing shall not be applied when the original or reproduction of a work is offered for transaction by means of selling, etc. with the authorization of the holder of the author's property rights. <Amended on April 22, 2009>

Article 21 (Right of Rental)

Notwithstanding the proviso of Article 20, the author shall have the right to rent a commercial phonogram or commercial program for the purpose of making a profit. <Amended on April 22, 2009>

Article 22 (Right of the Production of Derivative Work)

The author shall have the right to produce and use a derivative work based on his/her original work.

SUBSECTION 2. LIMITATIONS ON AUTHOR'S PROPERTY RIGHTS

Article 23 (Reproduction for Judicial Proceedings, etc.)

It is permissible to reproduce a work if and to the extent deemed necessary for the purposes of judicial proceedings and of internal use in the legislative or administrative bodies: *Provided*, That such reproduction does not unreasonably prejudice the interests of the owner of author's property rights in light of the type of the work as well as the number and the format of reproduction.

Article 24 (Use of Political Speeches, etc.)

It is permissible to exploit, by any means, political speeches delivered in public and statements made in courts of law, the National Assembly, or municipal assemblies: *Provided*, That the foregoing shall not be applied to the use as involves a compilation of the speeches or statements of the same author.

Article 25 (Use for the Purpose of School Education, etc.)

(1) A work already made public may be inserted in textbooks necessary for the purpose of education in high schools, their equivalents, or lower level schools.

(2) Schools established by special laws, the Early Childhood Education Act, the Elementary and Secondary Education Act, or the Higher Education Act; educational institutions operated by the national or local government; and educational supporting institutions belonging to the national or local government to support lessons of those educational institutions may reproduce, distribute, publicly perform, broadcast, or interactively transmit a part of a work already made public where it is recognized as necessary for the purpose of the lessons or the support: *Provided*, That it is inevitable to use entirety of a work in light of the nature of a work, and the purpose and manner of its use, etc., the use of entirety of the work is permissible. <Amended on April 22, 2009>

(3) A person who receives education at an educational institution pursuant to paragraph (2) may reproduce or interactively transmit a work already made public within the limit stipulated in paragraph (2) where it is recognized as necessary for the purpose of the lessons.

(4) A person who intends to exploit a work pursuant to paragraphs (1) and (2) shall pay remuneration to the owner of author's property rights according to the criteria determined and announced by the Minister of Culture, Sports and Tourism: *Provided*, That those who engage in the reproduction, distribution, public performance, broadcasting, or interactive transmission at high schools, their equivalents, or lower level schools pursuant to paragraph (2) shall not be obliged to pay remuneration. <Amended on February 29, 2008; April 22, 2009>

(5) The right to be remunerated pursuant to paragraph (4) shall be exercised by an organization which satisfies all of the following conditions and is designated by the Minister of Culture, Sports and Tourism. When the Minister of Culture, Sports and Tourism designates such an organization, the prior consent from the organization shall be obtained. <Amended on February 29, 2008>

The organization shall:

1. Consist of the persons who hold the right to receive compensation in the Republic of Korea

(hereinafter referred to as “holder of the right to remuneration”);

2. Not aim at making a profit; and

3. Have sufficient capability to carry out its duties of collecting, distributing, etc. of the remuneration.

(6) When there is an application from the holder of the right to remuneration even if he/she is not a member of the organization, the organization under Paragraph (5) shall not refuse to exercise the right for him/her. In such cases, the organization shall have the authority to perform an act, under its own name, in court or out of court regarding the right.

(7) The Minister of Culture, Sports and Tourism may revoke the designation if the organization under Paragraph (5) falls under any of the following Subparagraphs [<Amended on February 29, 2008>](#):

1. If an organization fails to satisfy the conditions stipulated in Paragraph (5);

2. If an organization violates the work regulations with regard to remuneration; and

3. If there is concern that the interest of the holder of the right to remuneration could be prejudiced due to the organization has suspended its duties on remuneration for a considerable period of time.

(8) The organization pursuant to paragraph (5) may use the remuneration that has been left undistributed for more than three years from the date of public announcement of remuneration distribution for the purpose of public interest after obtaining approval from the Minister of Culture, Sports and Tourism. [<Amended on February 29, 2008>](#)

(9) The necessary matters for the designation and revocation of an organization, work regulations, public announcement of remuneration distribution, approval for use of undistributed compensation for the purpose of public interest, etc. pursuant to paragraphs (5), (7) and (8) shall be prescribed by Presidential Decree.

(10) If an educational institution conducts interactive transmission pursuant to Paragraph (2), the necessary measures prescribed by Presidential Decree such as reproduction prevention measures, etc. shall be taken in order to prevent infringement on copyrights and other rights protected under this Act.

Article 26 (Use for News Reporting)

In case of reporting current events by means of broadcasts, newspapers, or other means, it is permissible to reproduce, distribute, perform publicly, or transmit publicly a work seen or heard in the relevant courses, to the extent justified by the reporting purpose.

Article 27 (Reproduction, etc. of News Articles and Editorials)

Current news articles and editorials about politics, economy, society, culture, and religion inserted in newspapers and Internet newspapers pursuant to Article 2 of the Act on the Promotion of Newspapers, etc. or by news agencies pursuant to Article 2 of the Act on the Promotion of Newspapers, etc. may be reproduced, distributed, or broadcasted by other media organizations: *Provided*, That the foregoing shall not be applied when indications of prohibition of use exist. [<Amended on July 31, 2009>](#)

Article 28 (Quotations from Work Made Public) It is permissible to quote a work already made public for news reporting, criticism, education, and research, etc. within a reasonable limit and in compliance with the fair practices.

Article 29 (Public Performance and Broadcasting for Non-profit Purposes)

(1) It is permissible to perform publicly or broadcast a work already made public for non-profit purposes and receiving profit in return under any pretext from audience, spectators or third persons: *Provided*, That the foregoing shall not be applied when performer concerned is paid ordinary compensation.

(2) It is permissible to play and perform publicly commercial phonograms or cinematographic works for the general public, if no benefit in return for the relevant public performance is received from audience or spectators: *Provided*, That the foregoing shall not be applied to the cases as prescribed by Presidential Decree.

Article 30 (Reproduction for Private Use)

A user may reproduce in private a work already made public without any commercial purposes: *Provided*, That the foregoing shall not be applied to reproduction by a photocopier set up for public use.

Article 31 (Reproduction, etc. in Libraries, etc.)

(1) Libraries under the Libraries Act and the facilities (including the heads of the appropriate facilities; hereinafter referred to as “libraries, etc.”) as prescribed by Presidential Decree among those facilities which provide books, documents, records and other materials (hereinafter referred to as “books, etc.”) for public use may reproduce the works contained in books, etc. kept at the libraries, etc. (in the case of subparagraph 1, including the books, etc. reproduced by and interactively transmitted to the libraries, etc. pursuant to the provision of paragraph (3) hereof) in any of the following cases: *Provided*, That in the case of subparagraphs 1 and 3, the works shall not be reproduced in digital format:

1. Where, at the request of a user and for the purpose of research and study, a single copy of a part of books, etc. already made public is provided to him/her;
2. Where it is necessary for libraries, etc. to reproduce books, etc. for the purpose of preserving such books, etc.; and
3. Where libraries, etc. provide other libraries etc. with copies of books, etc. those are out of print or not widely available for similar reasons at the request of other libraries etc. for the purpose of their preservation.

(2) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users to peruse them in such libraries, etc. by using computers. In such a case, the number of users who may peruse them at the same time shall not exceed the number of copies of such books, etc. kept at the libraries, etc. or authorized to be used by the persons with copyrights or other rights protected under this Act. [<Amended on April 22, 2009>](#)

(3) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users at other libraries, etc. to peruse them by computers: *Provided*, That, in those cases where all or a part of the books, etc. have been published for sale, such books, etc. shall not be reproduced or interactively transmitted until a period of five years has elapsed since the publication date of such books, etc. [<Amended on April 22, 2009>](#)

(4) In reproducing books, etc. pursuant to subparagraph 2 of paragraph (1), paragraph (2) or paragraph (3), libraries, etc. shall not reproduce such books, etc. in digital format if they are being sold in digital format.

(5) In reproducing books, etc. in digital format pursuant to subparagraph 1 of paragraph (1), or reproducing or interactively transmitting books, etc. for the purpose of allowing perusal inside other libraries, etc. pursuant to paragraph (3), libraries, etc. shall pay the owners of author’s property rights remuneration in accordance with the standards determined and published by the Minister of Culture, Sports and Tourism: *Provided*, That the foregoing shall not be applied to books, etc. (excluding those books, etc. which are, in part or in whole, published for the purpose of sale) regarding which the national, local governments, or schools hold author’s property rights pursuant to Article 2 of the Higher Education Act. [<Amended on February 29, 2008>](#)

(6) The provisions regarding remuneration in paragraphs (5) to (9) of Article 25, shall apply mutatis mutandis to the foregoing paragraph (5) with regard to the payment of remuneration, etc.

(7) If books, etc. are reproduced or interactively transmitted in digital format pursuant to the foregoing paragraphs (1) through (3), libraries, etc. shall take the necessary measures as prescribed by Presidential Decree such as reproduction prevention measures in order to prevent infringement on copyrights and other rights protected under this Act.

(8) If the National Library of Korea collects online materials for the purpose of preservation pursuant to Article 20*bis* of the Libraries Act, it may reproduce the appropriate materials. [<Added on March 25, 2009>](#)

Article 32 (Reproduction for Examination Questions)

It is permissible to reproduce and distribute a work already made public in questions of entrance examinations for schools or other examinations of knowledge and skills, within the reasonable extent deemed necessary for that purpose: *Provided*, That the foregoing shall not be applied if it is for the purposes of making a profit. [<Amended on April 22, 2009>](#)

Article 33 (Reproduction, etc. for Visually Impaired Persons, etc.)

(1) A Work already made public may be reproduced and distributed in Braille for visually impaired persons, etc.

(2) The facilities (including the heads of the appropriate facilities) prescribed by Presidential Decree among the facilities for the purpose of promoting the welfare of visually impaired persons, etc. may make a sound recording of the literary work already made public, or reproduce, distribute or interactively transmit such a work by an exclusive recording method for the visually impaired persons, etc. as prescribed by Presidential Decree, in order to provide it for the use by the visually impaired persons, etc., but not for the profit-making purposes. [<Amended on March 25, 2009>](#)

(3) The scope of visually impaired persons, etc. pursuant to paragraphs (1) and (2) shall be prescribed by Presidential Decree.

Article 34 (Ephemeral Sound or Visual Recordings by Broadcasting Organizations)

(1) Broadcasting organizations with the authority to broadcast a work may make ephemeral sound or visual recordings of a work for the purpose of their own broadcasting and by the means of their own facilities.

(2) Sound or visual recordings made pursuant to Paragraph (1) may not be kept for a period exceeding one year from the date of the sound or visual recording: *Provided*, That the foregoing shall not be applied when they are kept as materials for records at places prescribed by Presidential Decree.

Article 35 (Exhibition or Reproduction of Work of Art, etc.)

(1) The owner of an original of a work of art, etc. or a person who has obtained the owner's consent, may exhibit the work in its original form: *Provided*, That the foregoing shall not be applied if the work of art is to be exhibited at all times on the street, in the park, on the exterior of a building, or other places open to the public.

(2) Works of art, etc. exhibited at all times at an open place as referred to in the proviso of paragraph (1) may be reproduced and used by any means, except those falling under any of the following subparagraphs:

1. Where a building is reproduced into another building;
2. Where a sculpture or a painting is reproduced into another sculpture or a painting;
3. Where the reproduction is made in order to exhibit permanently at an open place pursuant to the proviso of paragraph (1); and
4. Where the reproduction is made for the purpose of selling

(3) A person who exhibits works of art, etc. pursuant to paragraph (1), or who intends to sell originals of works of art, etc. may reproduce and distribute them in a pamphlet for the purpose of explaining and introducing them.

(4) A commissioned portrait or similar photographic work shall not be used without the consent of the client.

Article 35bis (Temporary Reproduction in the Course of Use of Work)

If a work is used on a computer, the work may be temporarily reproduced on the computer to the extent deemed necessary for smooth and efficient information processing: *Provided*, That the foregoing shall not apply if the use of the work infringes the copyright.

[\[This article added on December 2, 2011\]](#)

Article 35ter (Fair Use of Works)

(1) It is permissible to use works for news reporting, criticism, education and research when such use does not conflict with the normal exploitation of works and does not unreasonably prejudice the legitimate interests of the except the cases pursuant to Articles 23 to 35bis and 101ter to 101quinquies.

(2) In determining whether an act of using works falls under paragraph (1), the factors of the following subparagraphs, etc. shall be considered:

1. the purposes and characters of the use, including whether such use is for profit or nonprofit;
2. the category and nature of the works;
3. the amount and substantiality of the portion used in relation to the work as a whole; and
4. the effect of the use on the current or potential market for or value of the work.

[[This article added on December 2, 2011](#)]

Article 36 (Use by Means of Translation, etc.)

(1) If a work is used in accordance with Articles 25, 29, 30, or 35ter, the work may be used by means of translation, arrangement, or adaptation. [<Amended on December 2, 2011>](#)

(2) If a work is used in accordance with Articles 23, 24, 26, 27, 28, 32, or 33, the work may be used by means of translation. [<Amended on December 2, 2011>](#)

Article 37 (Indication of Sources)

(1) A person who uses a work under this subsection shall indicate its sources: *Provided*, That the foregoing shall not be applied to the cases pursuant to Articles 26, 29 to 32, 34, and 35bis. [<Amended on December 2, 2011>](#)

(2) The indication of the sources shall be made in a manner deemed reasonable by the situation in which the work is used, and if the real name or pseudonym of the author of a work is originally indicated, such real name or pseudonym shall be indicated.

Article 37bis (Exclusion of Application)

Articles 23, 25, 30, and 32 shall not be applied to programs. [[This article added on April 22, 2009](#)]

Article 38 (Relationship with Author's Moral Rights)

No provision under this Subsection shall be interpreted as affecting the author's moral rights.

SUBSECTION 3. TERM OF PROTECTION OF AUTHOR'S PROPERTY RIGHTS

Article 39 (Principles of the Term of Protection)

(1) Author's property rights in a work shall subsist during the life of the author and for a period of seventy years after the death of the author, except as provided under this subsection. [<Amended on June 30, 2011>](#)

(2) Author's property rights in a joint work shall subsist for a period of seventy years after the last surviving author's death. [<Amended on June 30, 2011>](#)

Article 40 (Term of Protection for Anonymous and Pseudonymous Works)

(1) Author's property rights in an anonymous or pseudonymous work which is not widely known, shall subsist for a period of seventy years following the making public of the work: *Provided*, That if reasonable grounds are found to show that seventy years have lapsed after the death of the author within such a period, the property rights shall be deemed to have expired when seventy years have passed after the death of the author. [<Amended on June 30, 2011>](#)

(2) The provision of paragraph (1) shall not be applied to any of the following cases:

1. Where the real name or the well-known pseudonym of an author is identified during the period referred to in paragraph (1); and
2. Where the real name of the author is registered pursuant to paragraph (1) of Article 53 during the period referred to in Paragraph (1) [\[Enforcement Date July 1, 2013\]](#)

Article 41 (Term of Protection for a Work Made for hire)

Author's property rights of a work made for hire shall subsist for a period of seventy years following the making public of the work: *Provided*, That if it has not been made public within seventy years after its creation, the author's property rights shall subsist for a period of seventy years after its creation. [<Amended on June 30, 2011>](#)

Article 42 (Term of Protection for Cinematographic Works)

Notwithstanding the foregoing Articles 39 and 40, author's property rights in cinematographic works shall subsist for a period of seventy years from the time that such works are made public: provided that, in those cases where such works are not made public within seventy years after their creation, the rights shall subsist for a period of seventy years from the time of their creation. [<Amended on June 30, 2011>](#) [\[The title amended on June 30, 2011\]](#) [\[Enforcement Date July 7, 2013\]](#)

Article 43 (The Time When Serial Publications, etc. Have Been Made Public)

(1) The time when a work has been made public pursuant to paragraph (1) of Article 40, or Article 41, shall be, in case of a work made public in successive volumes, issues or installments, at the time when each volume, issue or installment is made public, and in case of work gradually made public in parts, at the time when its last part is made public. [<Amended on June 30, 2011>](#)

(2) In the case of works to be completed by publication in parts in a successive manner, the last part made public shall be deemed to be the last part pursuant to paragraph (1) if the part that is supposed to follow next is not made public within a period of three after the immediately preceding part was made public.

Article 44 (Calculation of the Term of Protection)

When determining the term of protection of author's property rights as prescribed under this Subsection, calculation shall be made from the following year of the death of the author, the creation of the work or the making public of the work.

SUBSECTION 4. TRANSFER, EXERCISE, AND EXPIRY OF AUTHOR'S PROPERTY RIGHTS

Article 45 (Transfer of Author's Property Rights)

(1) Author's property rights may be transferred of ownership in whole or in part.

(2) Where author's property rights are transferred of ownership in whole, the right of the making and use of a derivative work as prescribed under Article 22 shall be presumed not to be included in the transfer,

unless otherwise stipulated: provided that, in the case of programs, the right of the making of a derivative work shall be presumed to be included in the transfer unless otherwise stipulated. <Amended on April 22, 2009>

Article 46 (Authorization to Use Works)

- (1) The owner of author's property rights may authorize another person to use the work.
- (2) The person who obtained the authorization pursuant to Paragraph (1) shall be entitled use the work in a manner and conditions to the extent authorized by the owner.
- (3) The right of use authorized pursuant to paragraph (1) may not be transferred of ownership to a third party without the consent of the owner of author's property rights.

Article 47 (Exercise of the right of pledge on author's property rights)

- (1) The right of pledge on author's property rights may be exercised with respect to money or any other things to be received by the owner of author's property rights from the transfer of author's property rights or the use of works (including any compensation) for the establishment of exclusive rights of publication pursuant to Article 57 and publication rights pursuant to Article 63): *Provided*, That the money or any other things must be seized before payment or delivery of them. <Amended on April 22, 2009; December 2, 2011>
- (2) Author's property rights shall be entitled to exercise the author's property rights even when the right of pledge has been established thereon, unless otherwise stipulated in the act of establishment. <Added on April 22, 2009> [The title amended on June 30, 2011]

Article 48 (Exercise of Author's Property Rights in a Joint Work)

- (1) Author's property rights in a joint work shall not be exercised without the unanimous agreement of all the owners of author's property rights. Each owner of author's property rights shall not be entitled to transfer or pledge his/her share of author's property rights without the consent of the other authors. Each owner shall not prevent the agreement from being reached or refuse to give the consent in bad faith.
- (2) The profit generating from the exploitation of a joint work shall be apportioned among its authors according to the degree of contribution with respect to the creation by each author, unless otherwise stipulated. If the degree of contribution by each author is not clear, the profit shall be presumed to equally apportion to all the authors.
- (3) The owner of author's property rights in a joint work may renounce his/her share of the joint work. In the case of the owner renounces his/her share or is dead without an heir, the share shall be apportioned to the other owners according to the ratio of their shareholding.
- (4) Paragraphs (2) and (3) of Article 15 shall apply mutatis mutandis to the exercise of author's property rights in a joint work.

Article 49 (Expiry of Author's Property Rights)

Author's property rights shall expire in any of the following cases:

1. Where the owner of author's property rights is dead without an heir, the rights are escheated to the Government pursuant to provisions of the Civil Law and other laws and regulations; and
2. Where a legal person or an organization which is the owner of author's property rights dissolve, the author's property rights are escheated to the Government pursuant to the provisions of the Civil Law and other laws and regulations.

SECTION 5. USE OF WORKS UNDER STATUTORY LICENSE)

Article 50 (Use of Works in Which the Owner of Author's Property Rights Is Unknown)

(1) If any person, despite his/her considerable efforts in accordance with the criteria prescribed by Presidential Decree, cannot identify the owner of author's property rights in a work made public (except foreigners' works) or his/her domicile and therefore is unable to obtain the authorization of the author for its use, he/she may use the work by obtaining approval from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and depositing remuneration according to the criteria as determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

(2) The person who uses a work pursuant to the provision of paragraph (1) shall indicate intention to use and the approval date.

(3) If a work which already authorized statutory license for its use pursuant to paragraph (1) becomes the subject of statutory license again, the procedure of making considerable efforts in accordance with the criteria as prescribed by Presidential Decree pursuant to Paragraph (1) may be omitted, unless the owner of author's property rights raises an objection in accordance with the procedure prescribed by Presidential Decree before approval for statutory license for the work is granted.

(4) The Minister of Culture, Sports and Tourism shall notify the content of statutory license on information and communications network in accordance with Presidential Decree. <Amended on February 29, 2008>

Article 51 (Broadcasting of Works Made Public)

If a broadcasting organization which intends to broadcast a work already has been made public for the sake of public interest has negotiated with the owner of author's property rights but failed to reach an agreement, it may broadcast the work by paying to the owner of author's property rights or depositing remuneration according to the criteria as determined by the Minister of Culture, Sports and Tourism, after obtaining approval from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree. <Amended on February 29, 2008>

Article 52 (Production of Commercial Phonograms)

If three years have passed after the date of the first sale of a commercial phonogram in the Republic of Korea and if any person who intends to produce other commercial phonograms by the recording works already had recorded on the phonogram has negotiated with the owner of author's property rights but failed to reach an agreement, he/she may produce other commercial phonograms by obtaining approval from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and after making payment to the owner of author's property rights or depositing a sum of remuneration according to the criteria as determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

SECTION 6. REGISTRATION AND AUTHENTICATION

Article 53 (Registration of Copyright)

(1) The author may register the items of the following subparagraphs:

1. Real name, pseudonym (limited to a case where a pseudonym was used at the time a work was made public) nationality, address, or domicile of the author;
2. Title, category, and date/month/year of the creation of a work;
3. Whether a work was made public, or the country and date/month/year in which the work was first made public; and
4. Other items as prescribed by Presidential Decree.

(2) In the absence of any contrary intention of the author, after the death of the author, the person designated by the author's will or his/her heir may register pursuant to each subparagraph of paragraph (1).

(3) The person whose real name is registered as the author pursuant to paragraphs (1) and (2) shall be presumed to be the author of the registered work. The work which the date/month/year of creation or the

date/month/year of its first having been made public has been registered pursuant to paragraphs (1) and (2) shall be presumed to have been created or have been first made public on the registered date/month/year: *Provided*, That if the date/month/year of creation is registered after one year has passed from the time the work was created, the work shall not be presumed to have been created on the registered date/month/year. <Amended on April 22, 2009>

Article 54 (Registration and Effect of Change of Rights, etc.)

The following items may be registered and shall not be effective against any third party without the registration <Amended on December 2, 2011>:

1. Transfer (except for inheritance or other successions in general) or the restriction on the disposal of author's property rights;
2. Establishment, transfer, alteration, expiry, or the restriction on the disposal of exclusive rights of publication pursuant to Article 57, or publication rights pursuant to Article 63; and
3. Establishment, transfer, alteration, or expiry, or the restriction on the disposal of the right of pledge on author's property rights, exclusive rights of publication pursuant to Article 57, and publication rights pursuant to Article 63.

Article 55 (Procedures, etc. for Registration)

(1) The registration pursuant to Articles 53 and 54 shall be accomplished by the Minister of Culture, Sports and Tourism's entry on the Copyright Register (the Program Register in case of programs herein; hereinafter the same shall apply in this article). <Amended on February 29, 2008; April 22, 2009>

(2) The Minister of Culture, Sports and Tourism may turn down the application for registration falling under any of the following cases: provided that this shall not apply if the deficiencies of the application can be corrected and the applicant corrects them on the date of application <Amended on February 29, 2008>:

1. Where the application for registration is not for the subject of registration; and
2. Where the application for registration is not formatted correctly as prescribed by the Ordinance of the Ministry of Culture, Sports and Tourism, or does not attach to other necessary materials or documents.

(3) The Minister of Culture, Sports and Tourism shall issue or post on the information and communications networks a Registration Official Notice regarding the registration filled in the Copyright Register pursuant to paragraph (1), and where there is an applicant, the Minister of Culture, Sports and Tourism shall make the Copyright Register available for perusal by the applicant or shall issue a copy of the Copyright Register to the applicant. <Amended on February 29, 2008>

(4) The necessary matters regarding registration, the return of the application for registration, the issuance or posting of a Registration Official Notice, the perusal and the issuance of a copy of the Copyright Register pursuant to paragraphs (1) to (3) shall be set forth by Presidential Decree.

Article 55bis (Obligation to Maintain Confidentiality)

Any person who conducts registration tasks pursuant to Articles 53 to 55 or who retained that position shall not reveal secrets which he/she came to know in the course of conducting such tasks to third parties.

[This article added on April 22, 2009]

Article 56 (Authentication of Rights Holders, etc.)

(1) The Minister of Culture, Sports and Tourism may designate an organization for authentication to protect the safety and faith of transactions of works, etc. <Amended on February 29, 2008>

(2) The necessary matters regarding the designation of an organization for authentication, cancellation of the designation, procedures for authentication, etc. pursuant to paragraph (1) shall be set forth by Presidential Decree. <Amended on April 22, 2009>

(3) The organization pursuant to paragraph (1) may charge fees with respect to the authentication and the amount shall be determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

SECTION 7. EXCLUSIVE RIGHTS OF PUBLICATION <Amended on December 2, 2011>

Article 57 (Establishment of the Exclusive Right of Publication)

(1) A person who holds the right to publish, or reproduce and interactively transmit a work (hereinafter referred to as “publication, etc.”) may establish an exclusive right (hereinafter referred to as “exclusive right of publication”, excluding the publication right pursuant to Article 63; hereinafter the same shall apply) for a person who intends to use the work for publication, etc. <Amended on December 2, 2011>

(2) The owner of author’s property rights may establish a new exclusive right of publication for his/her work to the extent that the manner and conditions of publication, etc. do not overlap.<Added on December 2, 2011>

(3) The person for whom the exclusive right of publication pursuant to paragraph (1) has been established (hereinafter referred to as “owner of the exclusive right of publication”) shall have the right to use the work which is the object of such exclusive right of publication by means of publication, etc. according to the terms of the contract of establishment. <Amended on December 2, 2011>

(4) If the right of pledge is established on the right of reproduction, distribution and interactive transmission of a work, the owner of author’s property rights may establish an exclusive right of publication only with the authorization of the pledgee. <Amended on December 2, 2011> [The title amended on December 2, 2011]

Article 58 (Obligations of the Owner of the Exclusive Right of Publication)

(1) Unless otherwise stipulated in the contract of establishment, the owner of the exclusive right of publication shall use the work by means of publication, etc. within nine months from the date when he/she received the manuscripts or other similar materials which are necessary for the reproduction of the work which is the object of the exclusive right of publication. <Amended on December 2, 2011>

(2) Unless otherwise stipulated in the contract of establishment, the owner of the exclusive right of publication shall continue to use the work by means of publication, etc. in accordance with customary practices. <Amended on December 2, 2011>

(3) Unless otherwise stipulated in the contract, the owner of the exclusive right of publication shall indicate a notice of the owner of author’s property rights on each copy, as stipulated by Presidential Decree. <Amended on December 2, 2011> [The title amended on December 2, 2011]

Article 58bis (Revision, Addition or Reduction of a Work)

(1) If the owner of the exclusive right of publication reuses the work which is the object of the exclusive right of publication by means of publication, etc., the author may revise, add or reduce the contents of the work to the extent that it is justified. <Amended on December 2, 2011>

(2) If the owner of the exclusive right of publication intends to reuse the work which is the object of the exclusive right of publication by means of publication, etc., he/she shall notify the author of his/her intention in advance every time he/she intends to do so, unless otherwise stipulated in the contract.

<Amended on December 2, 2011>

[Moved from Article 59 on December 2, 2011]

Article 59 (Duration, etc. of the Exclusive Right of Publication)

(1) The duration of the exclusive right of publication shall be three years from the date of the first publication, etc., unless otherwise stipulated in the contract of establishment: *Provided*, That it shall be five years where the exclusive right of publication is established to cinematize the work. <Amended on

[December 2, 2011](#)>

(2) If the author of a work which is the object of an exclusive right of publication dies within the duration of the exclusive right of publication, the owner of author's property rights, notwithstanding the provision of Paragraph (1), may include the work in a complete collection of works or other compilation works, or separately use the work which is a part of a complete collection of works or other compilation works by means of publication, etc. [<Amended on December 2, 2011>](#)

[\[Moved from Article 60 and former Article 59 moved to Article 58-2 on December 2, 2011\]](#)

[\[The title amended on December 2, 2011\]](#)

Article 60 (Notification of the Termination of the Exclusive Right of Publication)

(1) If the owner of the exclusive right of publication has violated provision of paragraph (1) or (2) of Article 58, the owner of author's property rights may call on him/her to fulfill his/her obligation within a prescribed period of not shorter than six months. If the owner of the exclusive right of publication fails to do so within such a period, the owner of author's property rights may notify him/her of the termination of his/her exclusive right of publication. [<Amended on December 2, 2011>](#)

(2) The owner of author's property rights may immediately notify the owner of the exclusive right of publication of the termination of the exclusive right of publication, notwithstanding the provision of paragraph (1), when it is impossible for the owner of the exclusive right of publication to use the work by means of publication, etc., or it is obvious that he/she has no intention to do so. [<Amended on December 2, 2011>](#)

(3) When the termination of the exclusive right of publication is notified pursuant to paragraph (1) or (2), the exclusive right of publication shall be presumed to have been terminated on the date the owner of the exclusive right of publication has received the notification. [<Amended on December 2, 2011>](#)

(4) In the case of paragraph (3), the owner of author's property rights may at any time make a claim against the owner of the exclusive right of publication for restitution or compensation for damages accruing from the suspension of publication, etc. of the work. [<Amended on December 2, 2011>](#)

[\[Moved from Article 61, and former Article 60 moved to Article 59 on December 2, 2011\]](#)

[\[The title amended on December 2, 2011\]](#)

Article 61 (Distribution of Reproductions after Termination of the Exclusive Right of Publication)

After termination of the exclusive right of publication due to the expiry of the duration of the right or other reasons, the owner of the exclusive right of publication shall not distribute any copies of the work made within the duration of the exclusive right of publication, except the cases falling under any of the following subparagraphs: [<Amended on December 2, 2011>](#)

1. Where otherwise stipulated in the contract of establishment;
2. Where he/she has paid to the owner of the author's property rights for the publication of the work within the duration of the right of publication, and he/she distributes the number of copies equivalent to such payment.

[\[Moved from Article 62 and former Article 61 moved to Article 60 on December 2, 2011\]](#)

[\[The title amended on December 2, 2011\]](#)

Article 62 (Transfer of Ownership of the Exclusive Right of Publication, etc. and Limitations)

(1) The owner of the exclusive right of publication shall not transfer of ownership of the exclusive right of publication or shall not be the object of a pledge without the consent of the owner of author's property rights.

(2) Articles 23, 24, 25(1) to (3), 26 to 28, 30 to 33, 35(2) and (3), 35*bis*, 35*ter*, 36 and 37 shall apply *mutatis mutandis* to the reproduction, etc. of the work which is the object of the exclusive right of publication.

[\[This article wholly amended on December 2, 2011\]](#)

[\[Moved from Article 63, and former Article 62 moved to Article 61 on December 2, 2011\]](#)

SECTION 7bis. SPECIAL PROVISIONS CONCERNING PUBLICATION <Added on December 2, 2011>

Article 63 (Establishment of Publication Rights)

(1) A person who holds the right to reproduce and distribute a work (hereinafter referred to as “owner of the right of reproduction”) may establish the right to publish the work (hereinafter referred to as “right of publication”) for a person who intends to publish such work in documents or pictures by printing them or by other similar methods.

(2) A person for whom the right of publication is established pursuant to paragraph (1) (hereinafter referred to as “owner of the right of publication) shall have the rights to publish the work, which is the object of the right of publication, as it is as the original, according to the terms of the contract of establishment.

(3) In case the right of pledge whose object is the right of reproduction of the work has been established, the owner of the right of reproduction may establish the right of the publication only with the authorization of the owner of the right of pledge.

[This article added on December 2, 2011] [Former Article 63 moved to Article 62 on December 2, 2011]

Article 63bis (Mutatis Mutandis Application)

Articles 58 to 62 shall apply *mutatis mutandis* to the right of publication. In such purposes, “exclusive rights of publication” and “owner of author’s property rights” shall be construed as “right of publication” and “owner of the right of reproduction,” respectively.

[This article added on December 2, 2011]

CHAPTER 3. NEIGHBORING RIGHTS

SECTION 1. GENERAL PROVISIONS

Article 64 (Performances, Phonograms, and Broadcasts Protected)

(1) Performances, phonograms, and broadcasts conformed to any of the following subparagraphs shall be protected under this Act: <Amended on December 2, 2011>

1. Performances:

- a. Performances conducted by nationals of the Republic of Korea (including legal persons established according to the legislation of the Republic of Korea, and foreign legal persons located their principal offices in the Republic of Korea; hereinafter the same shall apply.);
- b. Performances protected under the international treaties to which the Republic of Korea has acceded to or concluded;
- c. Performances fixed in phonograms as referred to in subparagraph 2; and
- d. Performances transmitted by broadcasts as referred to in subparagraph (except those sound-recorded or video-recorded before transmission).

2. Phonograms:

- a. Phonograms produced by nationals of the Republic of Korea;
- b. Phonograms in which sounds have been fixed for the first time in the Republic of Korea;
- c. Phonograms protected pursuant to those treaties and first fixed in the Contracting Party to the treaties which the Republic of Korea has acceded to or concluded; and
- d. Phonograms protected pursuant to those treaties and of which produces of phonograms are the nationals(including juridical persons established according to the legislation of the Contracting Party or located the principal office in the Contracting Party) of the Contraction Party to the treaties which the

Republic of Korea has acceded to or entry into concluded.

3. Broadcasts:

- a. Broadcasts made by broadcasting organizations which are nationals of the Republic of Korea;
- b. Broadcasts made from broadcasting facilities located in the Republic of Korea; and
- c. Broadcasts protected pursuant to those treaties of which broadcasting organizations are the nationals of the Contracting Party to the treaties which the Republic of Korea has acceded to or concluded, and made from broadcasting facilities located in the Republic of Korea.

(2) Even if performances, phonograms, and broadcasts of foreign nationals are protected pursuant to paragraph (1), the term of protection under this Act shall not apply in case term of protection has expired in the relevant foreign country.

<Added on December 2, 2011>

Article 64bis (Presumption of Performers, etc.)

With respect to performances, phonograms, and broadcasts protected under this Act, persons whose real names or widely known pseudonyms are indicated as performers, producers of phonograms, or broadcasting organizations in the customary manner shall be presumed to have the rights as performers, producers of phonograms or broadcasting organizations for the relevant performances, phonograms, and broadcasts, respectively.

[This article added on June 30, 2011]

Article 65 (Relationship with Copyright)

In this Chapter, provisions of each Article shall not be construed to affect copyright.

SECTION 2. RIGHTS OF PERFORMERS

Article 66 (The Right of Paternity)

(1) The performer shall have the right to indicate his/her real name or pseudonym on his/her performance or copy of performance.

(2) In the absence of a performer's manifestation of intention to the contrary, the person using his/her work shall indicate the real name or pseudonym of the performer according to the mark/presentation/indication by the performer: *Provided*, That this shall not apply if such indication is deemed to be impossible) in light of the nature or the purpose and the manner of its use of the performance).

Article 67 (The Right of Integrity)

The performer shall have the right to maintain the integrity of the content and form of his/her performance: *Provided*, That this shall not apply if the nature or the purpose and the manner of its use of the performance).

Article 68 (Inalienability of Performer's Moral Rights)

The rights prescribed in Articles 66 and 67 (hereinafter referred to as "performer's moral rights") shall belong exclusively to the performer.

Article 69 (Right of Reproduction)

The performer shall have the right to reproduce his/her performance.

Article 70 (Right of Distribution)

The performer shall have the right to distribute the copies of his/her performance: *Provided*, That this shall not apply if the copy of his/her performance is offered for transaction by means of sale, etc. with the authorization of the performers.

Article 71 (Right of Rental)

Notwithstanding the proviso of Article 70, the performer shall have the right to rent for the purpose of making a profit commercial phonograms in which his/her performance is recorded.

Article 72 (Right of Public Performance)

The performer shall have the right to perform his/her unfixed performance publicly: *Provided*, That this shall not apply if the performance is broadcasted.

Article 73 (Right of Broadcasting)

The performer shall have the right to broadcast his/her performance: *Provided*, That this shall not be applicable to recorded performance with the authorization of performers.

Article 74 (Right of Interactive Transmission)

The performer shall have the right to transmit his/her performance in an interactive manner.

Article 75 (Remuneration by Broadcasting Organizations to Performers)

(1) When a broadcasting organization makes a broadcast using commercial phonograms in which performances are recorded, it shall pay reasonable remuneration to the performers: *Provided*, That this shall not be applicable to foreign national performers whose countries do not acknowledge such a remuneration to performers with nationality in the Republic of Korea pursuant to this paragraph.

(2) Paragraphs (5) to (9) of Article 25 shall apply mutatis mutandis to the payment of remuneration, etc. pursuant to paragraph (1).

(3) The amount of remuneration which the remuneration right holders' organization pursuant to paragraph (2) may claim on behalf of the remuneration right holders shall be determined each year by the agreement between the remuneration right holders' organization and the broadcasting organization.

(4) If the remuneration right holders' organization and the broadcasting organization fail to reach an agreement pursuant to paragraph (3), the remuneration right holders' organization or the broadcasting organization may request conciliation to the Korea Copyright Commission pursuant to Article 112 according to the conditions as prescribed by Presidential Decree. <Amended on April 22, 2009>

Article 76 (Remuneration by Digital Sound Transmission Organizations to Performers)

(1) When a digital sound transmission organization transmits performances by using commercial phonograms in which performances are recorded, it shall pay reasonable remuneration to the performers.

(2) Paragraphs (5) to (9) of Article 25 shall apply mutatis mutandis to payment of remuneration, etc. pursuant to Paragraph (1).

(3) The amount of remuneration which the remuneration right holders' organization pursuant to paragraph (2) may claim on behalf of the remuneration right holder shall be determined each year by the agreement between the remuneration right holders' organization and the digital sound transmission organization within a certain period of time set forth by Presidential Decree.

(4) In cases where the remuneration right holders' organization and the digital sound transmission organization fail to reach an agreement pursuant to paragraph (3), the amount determined and notified

by the Minister of Culture, Sports and Tourism shall be paid. <Amended on February 29, 2008>

Article 76bis (Remuneration by Parties Doing Public Performances Using Commercial Phonograms to Performers)

(1) A party doing a public performance using a commercial phonogram in which a performance is recorded shall pay reasonable remuneration to the performers appearing in the phonogram: *Provided*, That the foregoing shall not be applied to performer who is foreign national whose country does not admit the remuneration pursuant to this paragraph to performer with nationality in the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and paragraphs (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of remuneration, etc. pursuant to paragraph (1). [This article added on March 25, 2009]

Article 77 (Joint Performers)

(1) If two or more performers perform jointly in a chorus, concert or drama, etc., the rights of performers (excluding the moral rights of performers) as prescribed under this Section shall be exercised by a representative elected by the joint performers: *Provided*, That if such a representative is not elected, the conductor, director, etc. shall exercise the rights.

(2) In exercising the rights of performers pursuant to paragraph (1), if a solo vocalist or a solo instrument player participated in the performance, the consent of such vocalist or instrument player shall be obtained.

(3) Article 15 shall apply mutatis mutandis to the exercise of the moral rights of joint performers.

SECTION 3. RIGHTS OF PRODUCERS OF PHONOGRAMS

Article 78 (Right of Reproduction)

The Producer of phonogram shall have the right to reproduce his/her phonogram.

Article 79 (Right of Distribution)

The Producer of phonogram shall have the right to distribute his/her phonogram: *Provided*, That the copy of the phonogram is offered for transaction by means of sale, etc. with the authorization of the producer of phonogram.

Article 80 (Right of Rental)

Notwithstanding the proviso of Article 79, the producer of phonogram shall have the right to rent a commercial phonogram for the purpose of making a profit.

Article 81 (Right of Interactive Transmission)

The producer of phonogram shall have the right to transmit their phonograms in an interactive manner.

Article 82 (Remuneration by Broadcasting Organizations to Producer of Phonogram)

(1) If a broadcasting organization makes a broadcast using commercial phonograms, it shall pay reasonable remuneration to the producer of the phonogram: *Provided*, That the foregoing shall not be applied to producer of phonogram who is foreign national whose country does not admit the remuneration pursuant to this paragraph to producer of phonogram with nationality in the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and paragraphs (3) and (4) of Article 75 shall apply mutatis mutandis to the payment and amount of remuneration, etc. pursuant to paragraph (1).

Article 83 (Remuneration by Digital Sound Transmission Organizations to Producer of Phonogram)

(1) If a digital sound transmission organization transmits by using phonograms, it shall pay reasonable remuneration to the producer of the phonogram.

(2) Paragraphs (5) to (9) of Article 25 and paragraphs (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of remuneration, etc. pursuant to paragraph (1).

Article 83bis (Remuneration by Parties Doing Public Performance Using Commercial Phonogram to Producer of Phonogram)

(1) A party doing a public performance using a commercial phonogram shall pay reasonable remuneration to the producer of the phonogram: *Provided*, That the foregoing shall not be applied to producer of phonogram who is foreign national whose country does not admit the remuneration pursuant to this paragraph to producer of phonogram with nationality in the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and Paragraphs (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of remuneration, etc. pursuant to paragraph (1). [[This article added on March 25, 2009](#)]

SECTION 4. RIGHTS OF BROADCASTING ORGANIZATIONS

Article 84 (Right of Reproduction)

The broadcasting organization shall have the right to reproduce its broadcast.

Article 85 (Right of Simultaneous Broadcast)

The broadcasting organization shall have the right to authorize its broadcast to rebroadcast simultaneously.

Article 85bis (Right of Public Performance)

The broadcasting organization shall have the right to publicly perform its broadcast, when such public performance is made in places accessible to the public against payment of an entrance fee with regard to the watching the broadcast. [[This article added on June 30, 2011](#)]

SECTION 5. TERM OF PROTECTION OF NEIGHBORING RIGHTS

Article 86 (Term of Protection)

(1) The term of protection of neighboring shall commence from the time that falls under any of following subparagraphs and shall not require the fulfillment of any procedure or formalities: [<Amended on December 2, 2011>](#)

1. When the performance takes place in case of performance;
2. When the first fixation of sound in a phonogram is made in case of phonogram; and
3. When the broadcast is made in case of broadcast

(2) Neighboring rights (excluding moral rights of performers; hereinafter the same shall apply) shall remain effective for a period of 70 years (50 years in case of broadcast) counting from the year following

the year falling under any of following subparagraphs: <Amended on December 2, 2011>

1. When the performance takes place in case of performance: *Provided*, That in case a phonogram in which the performance is fixed is published within 50 years from the time such performance took place, when the phonogram is published;
2. When the phonogram is published in case of phonograms: *Provided*, That in case the phonogram has not been published until after 50 years have passed counting from the year after the year when the first fixation of sounds in the phonogram was made, when the first fixation of sounds is made;
3. When the broadcast is made in case of broadcast <Take effect on August 1, 2013> Article 86

SECTION 6. LIMITATIONS ON, TRANSFER OF OWNERSHIP, EXERCISE, ETC. OF NEIGHBORING RIGHTS

Article 87 (Limitations on Neighboring Rights)

(1) Articles 23, 24, 25(1) to (3), 26 to 32, 33(2), 34, 35*bis*, 35*ter*, 36 and 37 shall apply *mutatis mutandis* to the use of performances, phonograms, or broadcasts which are the objects of neighboring rights.

<Amended on December 2, 2011>

(2) If a digital sound transmission organization transmits performance using phonogram where performance is recorded pursuant to paragraph (1) of Article 76 and paragraph (1) of Article 83, it may make an ephemeral reproduction of the phonogram where performance is recorded by the means of its own facilities. In this case, paragraph (2) of Article 34 shall apply *mutatis mutandis* to the period of keeping such copy. <Added on April 22, 2009>

Article 88 (Transfer of Ownership, Exercise, etc. of Neighboring Rights)

Paragraph (1) of Article 45 shall apply *mutatis mutandis* to the transfer of ownership of neighboring rights; Article 46 to the authorization to use of performance, phonogram and broadcast; Article 47 to exercise of the right of pledge whose object is neighboring rights; Article 49 to the termination of neighboring rights, and Articles 57 to 62 to the establishment, etc. of exclusive rights of publication of performance, phonogram or broadcast, respectively. <This article wholly amended on December 2, 2011>

Article 89 (Statutory License for the Use of Performance, Phonogram, and Broadcast)

Articles 50 to 52 shall apply *mutatis mutandis* to the uses of performance, phonogram and broadcast.

Article 90 (Registration of Neighboring Rights)

Articles 53 to 55 and 55*bis* shall apply *mutatis mutandis* to the registration of neighboring rights or exclusive rights of publication of neighboring rights. In such cases, the term "Copyright Register" of Article 55 shall be considered as "Neighboring Rights Register." <Amended on April 22, 2009; December 2, 2011>

CHAPTER 4. PROTECTION OF DATABASE PRODUCERS

Article 91 (Databases under Protection)

(1) Any database of a person who falls under any of the following subparagraphs shall be protected under this Act:

1. Nationals of the Republic of Korea; and
2. Foreign nationals protected by the treaties that the Republic of Korea has acceded to or concluded

with regard to the protection of database.

(2) Even if foreign nationals' databases protected pursuant to the paragraph (1), the protection under the treaties and this Act may be correspondingly restricted if the foreign nationals' countries do not protect the databases of the nationals of the Republic of Korea.

Article 92 (Exclusion of Application)

The provisions of this Chapter shall not be applied to databases which fall under any of the following subparagraphs:

1. Computer programs which are used for production or renewal, etc., or operation of databases;
2. Databases produced or renewed, etc. in order to make wire or wireless communications technically possible.

Article 93 (Rights of Database Producer)

(1) A database producer shall hold the rights to reproduce, distribute, broadcast or interactively transmit (hereinafter referred to as "reproduction, etc." in this article) of whole or a considerable part of his/her database.

(2) The individual materials of a database shall not be regarded as a considerable part of the database pursuant to paragraph (1): *Provided*, That even in case of reproduction, etc. of any individual materials or a part of a database falling short of its considerable part thereof, it shall be considered as the reproductions, etc. of a considerable part of the database, if such reproduction, etc. is done repetitively or systematically for the specific purpose, and conflict with a normal exploitation of the database and unreasonably prejudice the interest of the database producers.

(3) Protection under this Chapter shall not affect the copyrights of the materials forming constituent parts of a database and other rights protected under this Act.

(4) Protection under this Chapter shall not extend to the materials themselves forming constituent parts of a database.

Article 94 (Limitation on Rights of Database Producer)

(1) Articles 23, 28 to 34, 35*bis*, 35*ter*, 36 and 37 shall apply *mutatis mutandis* to the use of a database which is the object of the rights of a database producer. <Amended on December 2, 2011>

(2) In any of the following cases, any person may reproduce, distribute, broadcast, or interactively transmit the whole or a considerable part of a database: *Provided*, That the foregoing shall not be applied to the cases where it conflicts with a normal exploitation of such a database:

1. In case of using a database for education, scholarship, or research: *Provided*, That the foregoing shall not apply to the cases aiming at making a profit;
2. In case of using a database for current news reports.

Article 95 (Term of Protection)

(1) Rights of a database producer shall commence from the time when the production of a database is completed, and remain effective for a period of five years counting from the year after the year when it is completed.

(2) Where a considerable amount of investment in human or material resources is made for renewal etc. of a database, the rights of a database producer for the relevant parts shall commence from the time of such renewal etc., and remain effective for a period of five years counting from the year after the year when the renewal, etc. made.

Article 96 (Transfer by Assignment, Exercise, etc., of Rights of Database Producer)

Article 20 shall apply *mutatis mutandis* to the offering of a database for transaction; the paragraph (1) of

Article 45 to the transfer of ownership of the rights of database producer; Article 46 to the authorization of the use of a database; Article 47 to the exercise of the right of pledge whose object is the rights of database producer; Article 48 to the exercise of rights of database producer of joint databases, Article 49 to the termination of rights of database producer; and Articles 57 to 62 shall apply *mutatis mutandis* to the establishment of exclusive rights of publication for database, etc. respectively. <This article wholly amended on December 2, 2011>

Article 97 (Statutory License for the Use of Database)

Articles 50 and 51 shall apply *mutatis mutandis* to the use of a database.

Article 98 (Registration of Rights of Database Producer)

Articles 53 to 55 and 55*bis* shall apply *mutatis mutandis* to the rights of database producer and the registration of exclusive rights of publication of the rights of database producer. In such cases, the term "Copyright Register" of Article 55 shall be considered as "Register of rights of database producer." <Amended on April 22, 2009; December 2, 2011>

CHAPTER 5. SPECIAL PROVISIONS CONCERNING CINEMATOGRAPHIC WORKS

Article 99 (Cinematization of Work)

(1) If the owner of author's property rights authorizes a person to cinematize his/her work, it shall be presumed that such authorization includes each of the following rights, unless otherwise stipulated:

1. To dramatize a work for the production of a cinematographic work;
2. To publicly show a cinematographic work made for the purpose of public presentation;
3. To broadcast a cinematographic work made for the purpose of broadcasting;
4. To interactively transmit a cinematographic work made for the purpose of interactive transmission;
5. To reproduce and distribute a cinematographic work for its original purpose;
6. To use the translation of a cinematographic work in the same manner as the cinematographic work.

(2) If the owner of author's property rights authorizes a person to cinematize his/her work, he/she may authorize, after the five years form the date of his/her authorization, to cinematize the work in another cinematographic work, unless otherwise stipulated.

Article 100 (Rights to Cinematographic Works)

(1) If a person who has agreed with a producer of a cinematographic work to cooperate in the production of a cinematographic work has obtained the copyright for such a cinematographic work, it shall be presumed that the rights necessary for using such a cinematographic work are transferred to the producer, unless otherwise stipulated.

(2) Author's property rights in a novel, play, work of art, or musical work used for the production of a cinematographic work shall not be affected by the provision of Paragraph (1).

(3) With respect to the use of a cinematographic work by a performer who has agreed with a producer of such a cinematographic work to cooperate for its production, it shall be presumed that the right of reproduction pursuant to Article 69, the right of distribution pursuant to Article 70, the right of broadcasting pursuant to Article 73, and the right of interactive transmission pursuant to Article 74 are transferred to the producer of such a cinematographic work, unless otherwise stipulated.

Article 101 (Rights of Producer of Cinematographic Work)

(1) Rights necessary for the use of a cinematographic work, which are transferred to the producer of a cinematographic work from the person who has agreed to cooperate for its production, shall be the right

to use the cinematographic work by means of reproduction, distribution, public presentation, broadcasting, interactive transmission and others, and the relevant producer may transfer the rights or set them as the object of a pledge rights.

(2) Rights that are transferred to the producer of a cinematographic work from a performer shall be the rights of reproduction, distribution, broadcasting, or interactive transmission, and the relevant producer may transfer the rights or set them as the object of pledge.

CHAPTER 5bis SPECIAL CASES CONCERNING PROGRAMS <Added on April 22, 2009>

Article 101bis (Objects of Protection)

This Act shall not be applied to the following subparagraphs used to make a program:

1. Programming language: Characters, signs, and their system as a means to express a program;
2. Protocol: A specific agreement on the usage of programming language in a specific program;
3. Algorithm: A method of combining instructions and commands in a program [This article added on April 22, 2009]

Article 101ter (Limitations to Author's Property Rights of Programs)

(1) In case of falling under any of the following subparagraphs, programs already made public may be reproduced or distributed to the extent deemed necessary for the purpose: *Provided*, That the foregoing shall not be applied if such reproduction or distribution unreasonably prejudice the interests of the owner of author's property rights for those programs in light of the types and usage of the programs, the relative importance of the reproduced portion in the programs, and the number of reproduced copies, etc:

1. Where a program is reproduced for a trial or investigation;
2. Where a program is reproduced or distributed by a person who is responsible for education at a school under the Early Childhood Education Act, the Elementary and Secondary Education Act, the Higher Education Act, and an educational institution established under other acts (only such institutions by which academic attainments is recognized for entrance to higher-level schools or which grant academic degrees) for the purpose of providing it to a course of lessons;
3. Where a program is reproduced to be included in textbooks for the purpose of education at schools under the Elementary and Secondary Education Act and schools equivalent thereto;
4. Where a program is reproduced for personal purpose (excluding cases for profit-making purpose) in confined place like home;
5. Where a program is reproduced or distributed for the purpose (excluding for the purpose of making a profit) of entrance examinations to schools under the Elementary and Secondary Education Act and the Higher Education Act and schools equivalent thereto, or other examinations or evaluations of knowledge and skills; and
6. Where a program is reproduced to research, study, and test the functions of a program to verify the ideas and principles constituting the basis of the program (only when the relevant program is used by a person who uses a program with legitimate authority).

(2) Programs (only when they are obtained in legitimate ways) may be temporarily reproduced during the course of using a computer for maintenance or repair of such computer. <This article added on December 2, 2011>

(3) A person intending to include a program in textbooks pursuant to subparagraph 3 of paragraph (1) shall pay the owner of the author's property rights remuneration according to the criteria determined and notified by the Minister of Culture, Sports and Tourism. Paragraphs (5) to (9) of Article 25 shall apply *mutatis mutandis* to payment of remuneration. [This article added on April 22, 2009; Amended on December 2, 2011]

Article 101quater (Decompilation of Program Codes)

(1) When it is difficult to obtain information necessary for compatibility and it is inevitable to obtain such information, a person using programs with a legitimate authority or any person who have acquired his/her authorization may perform reverse engineering of program codes limited to the necessary part for compatibility of the relevant program without acquiring authorization from the owner of the author's property rights of such programs.

(2) Information gained through decompilation of program codes pursuant to paragraph (1) shall not be used in any of the following cases:

1. When such information is used for the purpose other than the purpose of compatibility or is provided to a third party;

2. When such information is used for developing, producing, and selling programs whose expressions are practically similar to the program subject to the decompilation of program codes, or infringing copyright of the program in any other way. [\[This article added on April 22, 2009\]](#)

Article 101 quinquies (Reproduction for Preservation by a Legitimate User, etc.)

(1) A person who owns and uses copies of programs with legitimate authority may reproduce such copies to the extent necessary to provide against destruction, damage, or deterioration, etc. of such copies.

(2) When a person who owns and uses copies of programs lose the right to own and use such copies, he/she shall destroy the copies made pursuant to paragraph (1) unless the owner of author's property rights of the program specially expresses his/her intention: *Provided*, That the foregoing shall not be applied if the right to own and use copies of programs has been lost because of destruction of such copies. [\[This article added on April 22, 2009\]](#)

Article 101 sexies <Deleted on December 2, 2011>

Article 101 septies (Program Escrow)

(1) The owner of author's property rights of a program and a person authorized to use the program may escrow, by reaching agreement with a person designated by Presidential Decree (hereinafter referred to as "escrowee" in this article), the source code and technical information, etc. of the program to the escrowee.

(2) A person authorized to exploit the program may demand the escrowee provide the source code and technical information, etc. of the program when a reason set forth under the agreement of paragraph (1) occurs. [\[This article added on April 22, 2009\]](#)

CHAPTER 6. LIMITATION ON THE LIABILITY OF ONLINE SERVICE PROVIDERS

Article 102 (Limitation on the Liability of Online Service Providers)

(1) Even if copyright or other rights protected under this Act are infringed in relation to the acts set forth in the following subparagraphs, an online service provider shall not be responsible for such infringement, where he/she meets all the conditions prescribed in the items pursuant to each subparagraph;

1. Transmitting, routing or providing connections for works, etc. without modification of its content, or the automatic, intermediate, and temporary storage of such works, etc. in the course thereof, within a reasonably necessary period for such transmission:

a. Where the online service provider did not initiate the transmission of works, etc.;

b. Where the online service provider did not select the works, etc. or its recipients;

c. Where the online service provider adopted and reasonably implemented a policy that provides for

termination of the accounts (referring to the accounts for the authorization to use used by online service providers to identify and manage the users. The same applies to this Article, Articles 103*bis*, 133*bis* and 133*ter*) of those who repeatedly infringe on copyrights and other rights protected under this Act;

d. Where the online service provider accommodated and did not interfere with the right holders in using standard technical measures that are designed to identify and protect works, etc. and meet the conditions under Presidential Decree;

2. Automatic, intermediate, and temporary storage of works, etc. transmitted at the request of the service users for the purpose of making such works, etc. more efficiently accessed or received by subsequent users;

a. Where all the conditions under the items of Subparagraph 1 are met;

b. Where an online service provider did not modify the works, etc.;

c. Where an online service provider permitted access to temporarily stored works, etc. only to users who have met conditions, if there were such conditions required to access the works, etc.;

d. Where an online service provider complied with the rules concerning updating of the works, etc. when specified by the person who reproduces or interactively transmits works, etc. (hereinafter referred to as "reproducer or interactive transmitter") in accordance with a data communications protocol for computers or information and communications networks that is generally accepted within such industry: *Provided*, That the same shall not apply if the reproducer or interactive transmitter determined the rules concerning updating for the purpose of unreasonably restricting such storage [;]

e. Where an online service provider did not interfere the use of technology that is generally accepted within such industry and applied at the originating site of the works, etc. to obtain information about the use of such works, etc.;

f. Where an online service provider immediately removed or disabled access to the works, etc., when he/she received a request to suspend the reproduction or interactive transmission pursuant to paragraph (1) of Article 103; when such works, etc. has been removed or disabled at the originating site; or when he/she actually became aware of the fact that the court or the head of a related central administrative agency has issued an order to delete or disable access to the works, etc.;

3. Storage of the works, etc. in the computer of an online service provider at the request of reproducer or interactive transmitter

a. Where all the conditions under the items of subparagraph 1 are met;

b. Where an online service provider did not receive a financial benefit directly attributable to the infringing activity in circumstances where he/she has the right and ability to control such activity;

c. Where an online service provider immediately suspended reproduction or interactive transmission of the works, etc., when he/she obtained actual knowledge of the infringement or became aware of facts or circumstances that the infringement was apparent through the request, etc. to suspend the reproduction or interactive transmission pursuant to paragraph (1) of Article 103;

d. Where an online service provider designated and announced a person to receive demands for suspending reproduction or interactive transmission pursuant to paragraph (4) of Article 103;

4. Allowing users to identify locations of works, etc. or connecting users to such work, etc. on the information and communications network through information search tools

a. Where requirement of subparagraph 1 (a) is met;

b. Where requirements of subparagraph 3 (b) to (d) are met

(2) Notwithstanding paragraph (1), an online service provider shall not be responsible for any infringements of copyright and other rights protected under this Act due to the reproduction or interactive transmission of works, etc. by other persons, if taking measures pursuant to paragraph (1) is not technologically possible. <Amended on June 30, 2011>

(3) With respect to the limitation on the liability under paragraph (1), an online service provider shall neither be obligated to monitor any infringements taking place within his/her services nor proactively investigating such infringements. <This Paragraph added on June 30, 2011>

Article 103 (Discontinuation of Reproduction or Interactive Transmission)

(1) Any person who claims that his/her copyrights or other rights protected under this Act are infringed

due to the reproduction or interactive transmission of works, etc. (hereinafter referred to as “claimant to a right” in this article) through the use of services provided by an online service provider (excluding cases pursuant to subparagraph 1 of paragraph (1) of Article 102; hereinafter the same applies to this article.) may call on the online service provider to suspend the reproduction or interactive transmission of such works, etc. by vindicating of such a fact. < Amended on June 30, 2011>

(2) Where an online service provider is required to suspend the reproduction or interactive transmission pursuant to paragraph (1), he/she shall immediately suspend the reproduction or interactive transmission of such works, etc., and notify a claimant to a right of such fact: *Provided*, That the online service provider pursuant to subparagraphs 3 and 4 of Paragraph 1 of Article 102 shall also give notice to reproducer or interactive transmitter of such works, etc. <Amended June 30, 2011>

(3) Where a reproducer or interactive transmitter who is notified pursuant to paragraph (2) vindicates that his/her reproduction or interactive transmission is based on legitimate rights and demands resumption of such reproduction or interactive transmission, the online service provider shall promptly notify the claimant to a right of the fact of demanding a resumption and the scheduled date of resumption, and shall resume the reproduction or interactive transmission on such a scheduled date: *Provided*, That the foregoing shall not apply if the claimant to a right notifies the online service provider of the fact that he/she has filed a litigation against the infringement by the reproducer or interactive transmitter before the scheduled date of resumption. <Amended December 2, 2011>

(4) An online service provider shall designate a person who will receive demands for suspension and resumption of the reproduction or interactive transmission pursuant to paragraphs (1) and (3) (hereinafter referred to as “receiver” in this article) and make a public notice thereof so that those who use his/her facilities or services may be easily made aware thereof.

(5) Where an online service provider has made a public notice pursuant to paragraph (4), and has suspended or resumed the reproduction or interactive transmission of works, etc. pursuant to paragraphs (2) and (3), such an online service provider’s liability for the infringement by other persons on copyrights and other rights protected under this Act as well as the damages incurred to the reproducer or interactive transmitter shall be exempted: *Provided*, That the foregoing shall not be applied to any liability arisen from the time when the online service provider has known the fact that copyrights and other rights protected under this Act were infringed due to reproduction or interactive transmission of works, etc. by other persons to the time when a demand for the suspension pursuant to paragraph (1) is received. <Amended on June 30, 2011; December 2, 2011>

(6) Any person who demands that the reproduction or interactive transmission of works, etc. be ceased or resumed pursuant to paragraphs (1) and (3) without any legitimate rights shall compensate for any damages incurred thereby.

(7) Matters necessary for the vindication, discontinuation, notification, resumption of reproduction or interactive transmission, designation of a receiver, and public announcement, etc. pursuant to paragraphs (1) to (4) shall be prescribed by Presidential Decree. In such cases, the Minister of Culture, Sports and Tourism shall make a prior consultation with the heads of the related central administrative authorities. <Amended on February 29, 2008; June 30, 2011>

Article 103bis (Scope of Court Orders on Online Service Provider)

(1) The court may only order the measures in the following subparagraphs when it orders necessary measures pursuant to paragraph 3 of Article 123 to an online service provider meets the requirements pursuant to subparagraph 1 of paragraph 1 of Article 102:

1. Termination of specific accounts;
2. Reasonable measures to prevent access to specific foreign websites.

(2) The court may only order the measures in the following subparagraphs when it orders necessary measures pursuant to paragraph 3 of Article 123 to an online service provider meets the requirements pursuant to subparagraphs 2 to 4 of paragraph 1 of Article 102:

1. Deletion of illegal copies;
2. Measures to prevent access to illegal copies;
3. Termination of specific accounts;

4. Other measures that the court deems necessary to the extent of imposing the minimum burden on the online service provider. [\[This article added on December 2, 2011\]](#)

Article 103ter (Request for Information on the Reproducer or Interactive Transmitter)

(1) Where the claimant to a right has requested an online service provider to provide information owned by such online service provider, such as names and addresses of the relevant reproducer and Interactive transmitter to the minimum extent necessary in order to file a civil or criminal complaint, but the online service provider has refused such request, the claimant to the right may request the Minister of Culture, Sports and Tourism to issue an order to the online service provider to provide such information.

(2) In receipt of a request pursuant to paragraph (1), the Minister of Culture, Sports and Tourism may order an online service provider to submit information on the relevant reproducers or interactive transmitters after deliberation by the Korea Copyright Commission pursuant to Article 112.

(3) An online service provider shall submit the relevant information to the Minister of Culture, Sports and Tourism within seven days from receiving such an order under Paragraph (2), and the Minister of Culture, Sports and Tourism shall provide the information to a person who made the request pursuant to paragraph (1) without delay.

(4) A person who has received information on the reproducers or interactive transmitters pursuant to paragraph (3) shall not use it for the purposes other than those of request pursuant to paragraph (1).

(5) Other necessary matters for providing information on the reproducers or interactive transmitters shall be determined by Presidential Decree.

[\[This article added on December 2, 2011\]](#)

Article 104 (Obligation, etc. of Special Types of Online Service Providers)

(1) An online service provider who aims principally to enable interactive transmission of works, etc. between other persons by using computers (hereinafter referred as “special types of online service provider”) shall take the necessary measures such as technological measures, etc. to block illegal interactive transmissions of the works, etc. upon requests from the rights holders. In such cases, matters related to the requests from rights holders and the necessary measures shall be determined by Presidential Decree. [<Amended on April 22, 2009>](#)

(2) The Minister of Culture, Sports and Tourism may determine and officially announce the scope of special types of online service providers pursuant to paragraph (1). [<Amended on February 29, 2008>](#)

CHAPTER 6bis. PROHIBITION of CIRCUMVENTING TECHNOLOGICAL PROTECTION MEASURES, etc.

[<This chapter added on June 30, 2011>](#)

Article 104bis (Prohibition of Circumventing Technological Protection Measures)

(1) No person shall circumvent technological protection measures pursuant to subparagraph 28(a) of Article 2 without legitimate authority either intentionally or negligently by such means as removal and alteration, or circumvention, etc.: *Provided*, That the foregoing shall not be applied to any of the following:

1. Where a person who is engaged in studying encryption circumvents technological protection measures to the extent where it is necessary for studying any flaw or vulnerability of encryption technology applied to the works, etc. after legitimately obtaining the copy of the works, etc.: *Provided*, That the person has made a considerable effort to obtain authorization for the use necessary for the study from the right holders, but failed to do so.

2. In case of including components or parts that circumvent technological protection measures in technology, products, services, or devices in order to prevent minors from accessing online works, etc.

harmful to minors: *Provided*, That this applies only to the cases not forbidden under Paragraph (2);

3. Where it is necessary to identify and disable capability to carry out undisclosed collection or dissemination of personally identifying information reflecting the online activities of an individual: *Provided*, That this shall not apply if it effects other persons to access to the works, etc.;

4 Where it is necessary for national law enforcement, legal intelligence gathering or security, etc.;

5. Where it is necessary for educational institutions and educational support institutions pursuant to paragraph (2) of Article 25, libraries (limited to non-profit libraries) pursuant to paragraph (1) of Article 31, or document management institutions under the Public Document Management Act to decide whether to purchase the works, etc.: *Provided*, That this applies only when any access thereto is impossible without circumventing technological protection measures;

6. Where a person who uses programs with legitimate authority conducts decompilation of program to the extent necessary for compatibility with other programs;

7. Where it is necessary for a person who has legitimate authority only to inspect, investigate, or correct the security of a computer or information and communications network;

8. Where the Minister of Culture, Sports and Tourism determines and issues a public notice according to the procedures stipulated in the President Decree as it is deemed that the legitimate use of certain types of works, etc. is unreasonably affected or likely to be affected by the prohibition of circumventing technological protection measures. In such cases, such exception shall remain effective for three years.

(2) No person shall manufacture, import, distribute, interactively transmit, sell, rental, offer to the general public for subscription, advertise for sale or rental, store or possess to distribute any of the following devices, products, or components, or provide relevant services without legitimate authority:

1. Items that are promoted, advertised, or marketed for the purpose of circumventing technological protection measures;
2. Items that have limited commercial purposes or uses other than circumventing technological protection measures;
3. Items that are designed, produced, remodeled or performed for the main purpose of making the circumventing technological protection measures possible or easy.

(3) Notwithstanding paragraph (2), the foregoing shall not apply to any of the following:

1. Cases falling under subparagraphs 1, 2, 4, 6 and 7 of paragraph (1) with respect to the technological protection measures pursuant to subparagraph 28(a) of Article 2;
2. Cases falling under subparagraphs 4 and 6 of paragraph (1) with respect to the technological protection measures pursuant to subparagraph 28(b) of Article 2.

[\[This article added on June 30, 2011\]](#)

Article 104ter (Prohibition of Removal or Alteration, etc. of Rights Management Information)

(1) No person shall conduct any of the acts in the following subparagraphs without legitimate authority either knowingly or without knowing by negligence that such an act induces or conceals infringement of copyrights and other rights protected under this Act. [< Amended on December 2, 2011 >](#)

1. Act of intentional removing, altering or falsely adding rights management information;
2. Act of distributing or importing for distribution rights management information knowing that the rights management information has been removed or altered without legitimate authority;
3. Act of distributing, performing, publicly transmitting, or importing for distribution the original of relevant works, etc. or copy thereof knowing that the rights management information has been removed, altered or falsely added without legitimate authority;

(2) Paragraph (1) shall not be applied to the cases necessary for national law enforcement, legal intelligence gathering or security, etc. [\[This article added on June 30, 2011\]](#)

Article 104quater (Prohibition of Circumventing Encrypted Broadcasting Signals, etc.)

No person shall conduct any of the acts in the following subparagraphs:

1. Act of manufacturing, assembling, modifying, importing, exporting, selling, leasing or delivering in other ways tangible or intangible measures including devices, products, major components or programs,

etc. for the purposes of decoding encrypted broadcasting signals without authorization of broadcasting organizations, knowing or not knowing by negligence that the encrypted broadcasting signals are primarily used for such purposes; *Provided*, That the foregoing shall not be applied to subparagraphs 1, 2 or 4 of paragraph (1) of Article 104*bis*;

2. Where encrypted broadcasting signals have been decoded with legitimate authority, act of public transmission of decoded broadcasting signals, upon knowing such fact, to other persons for profit without authorization from the broadcasting organizations;

3. Act of listening, viewing or publicly transmitting encrypted broadcasting signals to other persons upon receipt of the signals knowing that such encrypted broadcasting signals were decoded without authorization from the broadcasting organizations.

[This article added on December 2, 2011]

[Former Article 104*quater* moved to Article 104*octies* on December 2, 2011]

Article 104*quinquies* (Prohibition of Counterfeiting, etc. of Labels)

No person shall conduct any of the acts in the following subparagraphs without legitimate authority:

1. Act of counterfeiting labels of works, etc. to be affixed to, enclose or accompany illegal copy or documentation or packaging thereof, or act of distributing the labels or possessing them for distribution upon knowing such fact;

2. Act of distributing labels, produced with authorization from the right holder of the works, etc. or a person who has received consent from him/her, beyond the authorized scope, or act of redistributing the labels or possessing them for redistribution upon knowing such fact;

3. Act of counterfeiting documentation or packaging that is distributed with legitimate copies of works, etc. in order to use it for illegal copies, or act of distributing counterfeited documentation or packaging or possessing them for distribution upon knowing the fact. [This article added on December 2, 2011]

Article 104*sexies* (Prohibition of Recording Cinematographic Works, etc.)

No person shall record or publicly transmit the cinematographic works protected by copyright by use of any recording device, without authorization from the owner of author's property rights, at movie theaters, etc. screening such works. [This article added on December 2, 2011]

Article 104*septies* (Prohibition of Transmitting Signals Prior to Broadcasting)

No person shall transmit signals that are transmitted to broadcasting organizations to any third person (except for cases for the purpose of allowing the public to directly receive them) without legitimate authority.

[This article added on December 2, 2011]

Article 104*octies* (Claim, etc. of Suspension or Prevention of Infringement)

A person who holds copyrights and other rights protected under this Act may claim suspension or prevention of infringement, security for damages, damages or statutory damages against a person who has violated any regulations from Articles 104*bis* to 104*quater*, or may claim suspension or prevention of infringement against a person who conducted an act pursuant to paragraph (1) of Article 104*bis* without intention or negligence. In such cases, Articles 123, 125, 125*bis*, 126 and 129 shall apply *mutatis mutandis*. < Amended on December 2, 2011 >

[This article added on June 30, 2011]

[Moved from former Article 104*quater* on December 2, 2011]

CHAPTER 7. COPYRIGHT MANAGEMENT SERVICES

Article 105 (Permission, etc. for Copyright Management Services)

(1) Any person who intends to engage in copyright trust services shall obtain a permit from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and any person who intends to engage in copyright agency or brokerage services shall report to the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree. <Amended on February 29, 2008>

(2) Any person who intends to engage in copyright trust services pursuant to Paragraph (1) shall meet the conditions in the following subparagraphs, draw up the regulations regarding the duties of copyright trust services as determined by Presidential Decree, and submit them with an application for permission for copyright trust services to the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

1. That it shall be an organization consists of the rights holders with regard to works, etc.;
2. That it shall not aim at making a profit;
3. That it shall have sufficient capability to carry out its duties including collection, distribution, etc. of royalties.

(3) Any person falling under any of the following subparagraphs shall not be eligible to obtain permission to engage in copyright trust services or copyright agency or brokerage services (hereinafter referred to as "copyright management services") pursuant to paragraph (1) or report it:

1. Any incompetent or quasi-incompetent;
2. Any person who has been declared bankrupt and has not yet been reinstated;
3. Any person for whom one year has not passed following the execution of or the final decision to suspend criminal penalties of a fine or more severe punishment for violation of this Act, or who is on probation following a suspended sentence;
4. Any person who has no residence in the Republic of Korea;
5. Any legal person or organization in which a person falling under any of foregoing Subparagraphs 1 to 4 is the representative or a senior executive officer.

(4) Any person who has obtained a permit or report for copyright management services in accordance with Paragraph (1) (hereinafter referred to as "copyright management service provider") may charge fees for his/her services from the owner of author's property rights or other interested persons.

(5) The rate and amount of fees as prescribed under Paragraph (4) and the rate and amount of royalties that copyright management service providers receive from users shall be determined by the copyright management service providers subject to the approval of the Minister of Culture, Sports and Tourism: *Provided*, That the foregoing shall not be applied to a person who has reported copyright agency or brokerage services. <Amended on February 29, 2008>

(6) In case of approval pursuant to paragraph (5), the Minister of Culture, Sports and Tourism shall go through deliberation by the Korea Copyright Commission as prescribed under Article 112, and may set the period for the approval or approve the application after correcting the content thereof, if necessary. <Amended on February 29, 2008; April 22, 2009>

(7) In case where an application for approval regarding the rate and amount of royalties is submitted or the approval for such an application is made under Paragraph (5), the Minister of Culture, Sports and Tourism shall notify the contents thereof pursuant to Presidential Decree. <Amended on February 29, 2008>

(8) The Minister of Culture, Sports and Tourism may amend the content of approval pursuant to paragraph (5), where it is necessary to protect the rights and interests of the owner of author's property rights and other interested persons or to promote the convenience of use of works, etc. <Amended on February 29, 2008>

Article 106 (Obligation of Copyright Trust Service Providers)

(1) Copyright trust service providers shall draw up lists of works, etc. managed by them on a quarter year basis in a book or electronic form as prescribed by Presidential Decree so as to be available to anyone during business hours at the least.

(2) When requested by a user in writing, copyright trust service providers shall, if there is no justifiable

reason not to do so, provide information stipulated by Presidential Decree as necessary for concluding license agreement of works, etc. managed by the copyright trust service providers, in writing within a considerable period of time.

Article 107 (Claim for Perusal of Documents)

Copyright trust service providers may claim perusal of documents necessary for calculating royalties for the concerned works, etc. to those who use the works, etc. entrusted by the providers for the purpose of making a profit. In this case, the user shall comply with the claim if there is no justifiable reason not to do so.

Article 108 (Supervision)

(1) The Minister of Culture, Sports and Tourism may demand a copyright management service provider to submit a necessary report on his/her duties of copyright management services. [<Amended on February 29, 2008>](#)

(2) In order to promote the protection of rights and interests of authors and the convenient use of works, the Minister of Culture, Sports and Tourism may issue necessary orders concerning copyright management services. [<Amended on February 29, 2008>](#)

Article 109 (Revocation, etc. of Permission)

(1) The Minister of Culture, Sports and Tourism may order the suspension of business for a specified period of no longer than six months, if a copyright management service provider commits any of the following acts: [<Amended on February 29, 2008>](#)

1. Where he/she has charged fees in excess of the approved amount in accordance with the provision of Paragraph (5) of Article 105;
2. Where he/she has received royalties in addition to the approved royalties in accordance with the provision of Paragraph (5) of Article 105;
3. Where he/she has failed to submit a report as prescribed under Paragraph (1) of Article 108 without any justifiable reason or has made a false report;
4. Where he/she has received an order as prescribed under Paragraph (2) of Article 108, but fails failed to fulfill the order without any justifiable reason.

(2) The Minister of Culture, Sports and Tourism may revoke permission for or order to close copyright management services, if a copyright management service provider commits any of the following acts [<Amended on February 29, 2008>](#):

1. Where he/she has obtained permission or reported by fraudulent or other unlawful means;
2. Where he/she continues to do business after receiving an order of business suspension under Paragraph (1).

Article 110 (Hearing) If the Minister of Culture, Sports and Tourism intends to cancel permission for or order to close copyright management services in accordance with Paragraph (2) of Article 109, he/she shall hold a hearing. [<Amended on February 29, 2008>](#)

Article 111 (Surcharge)

(1) When a copyright management service provider commits any of the acts prescribed in Paragraph (1) of Article 109 and therefore is subject to an order of suspension of business, the Minister of Culture, Sports and Tourism may impose and collect a surcharge of no more than KRW 50 million from the copyright management service provider in return for the order of suspension of business concerned. [<Amended on February 29, 2008>](#)

(2) When the person who was imposed a surcharge in accordance with Paragraph (1) fails to pay the

surcharge by the payment deadline, the Minister of Culture, Sports and Tourism shall collect the stated surcharge in the same manner as dispositions of delinquent national taxes. <Amended on February 29, 2008>

(3) The surcharge collected pursuant to Paragraphs (1) and (2) may be used by the collecting body to establish the sound order of use of works.

(4) Matters necessary for the amount of surcharges in accordance with kind, degree, etc. of violations which are subject to surcharge pursuant to Paragraph (1) and the procedure of using surcharges, etc. pursuant to Paragraph (3) shall be prescribed by Presidential Decree.

CHAPTER 8. KOREA COPYRIGHT COMMISSION <Amended on April 22, 2009>

Article 112 (Establishment of the Korea Copyright Commission)

(1) In order to deliberate on matters concerning copyrights and other rights protected under this Act (hereinafter referred to as “copyrights” in this Chapter), mediate and conciliate disputes concerning copyrights (hereinafter referred to as “disputes”), and conduct businesses necessary for the protection and fair exploitation of copyrights, the Korea Copyright Commission (hereinafter referred to as the “Commission”) shall be established.

(2) The Commission shall be a legal person.

(3) The provisions regarding incorporated foundations under the Civil Act shall apply mutatis mutandis to matters concerning the Commission which are not stipulated under this Act. In this case, the commissioners of the Commission shall be regarded as directors.

(4) No person who is not the Commission shall use the name of the Korea Copyright Commission.

[This article wholly amended on April 22, 2009]

Article 112 bis (Organization of the Commission)

(1) The Commission shall consist of more than twenty or less than twenty five members including one chairman and two vice chairmen.

(2) Members shall be commissioned by the Minister of Culture, Sports and Tourism among persons falling under any of the following subparagraphs, and the chairman and vice chairmen shall be elected from among the members. In this case, the Minister of Culture, Sports, and Tourism shall ensure that the number of members who represent the interests of owners of the rights protected under this Act and that of members who represent the interests of users of such rights are balanced, and may request the organizations of rights holders or users, etc. to recommend members by each sector:

1. Person who has experience as an associate professor or equivalent at a university or an authorized research organization, and majored in an area related to copyrights;

2. Person who currently holds the position as a judge or a public prosecutor, or is a certified lawyer;

3. Person who has work experience in areas of copyrights or the culture industry as a present or former public official with a Class 4 or higher position, or as a present or former employee at an equivalent position at a public institution;

4. Person who is currently or has been a senior executive officer with organizations in areas related to copyrights or the culture industry; and

5. Person) who has ample experience as well as knowledge in other areas related to copyrights and the culture industry

(3) The term of members shall be a period of three years, and the members can serve two terms as the members: *Provided*, That the term of members who are nominated to a designated position shall be the period during their term of office.

(4) If a vacancy occurs in the membership of the Commission, a supplementary member shall be commissioned in accordance with Paragraph (2), and the term of the member shall be the remainder of it of the former. A supplementary member may not be commissioned if the total number of incumbent members is twenty or more.

(5) The Commission may set up a sub-commission by each sector to effectively carry out the tasks of the Commission. Any decision made by a sub-commission on a matter delegated by the Commission shall be regarded as a decision made by the Commission. [\[This article added on April 22, 2009\]](#)

Article 113 (Functions)

The Commission shall perform the following functions [<Amended on February 29, 2008; April 22, 2009>](#):

1. Mediate and conciliate to settle disputes;
2. Deliberate on matters concerning the rates and amounts of fees and royalties for the copyright management service providers prescribed under Paragraph (6) of Article 105, and matters referred to the Commission by the Minister of Culture, Sports and Tourism or jointly by three or more members;
3. Establish sound use of works, etc. and promote fair use of works;
4. Engage in international cooperation to protect copyrights;
5. Conduct research about, provide education in, and raise public awareness of copyrights;
6. Assist in establishing copyright policy;
7. Assist in establishing policy regarding technological protection measures and right management information;
8. Establish and operate an information management system for the provision of copyright information;
9. Conduct appraisals on matters concerning infringements of copyrights, etc.;
10. Make recommendations of corrections for online service providers and request the Minister of Culture, Sports and Tourism to issue corrective orders;
11. Perform duties provided for as the duties of the Commission under laws or those delegated to the Commission; and
12. Perform other duties entrusted by the Minister of Culture, Sports and Tourism

Article 113bis (Mediation)

(1) A party wishing to receive mediation for a dispute may request mediation by submitting a mediation application to the Commission.

(2) When the Commission receives a request for mediation pursuant to paragraph (1), the chairman shall designate mediation member(s) from among the members of the Commission to perform mediation.

(3) Mediation member(s) may suspend the mediation **proceedings** when a resolution of a dispute through mediation is deemed impossible.

(4) If there is an application for conciliation according to this Act regarding a dispute under mediation, the ongoing mediation shall be deemed suspended.

(5) When mediation is concluded, the mediation member(s) shall write up a mediation letter and affix their signatures and seals to the letter along with the appropriate parties.

(6) The necessary matters regarding the mediation application and procedures shall be set forth by Presidential Decree.

[\[This article added on April 22, 2009\]](#)

Article 114 (Conciliation Division)

(1) In order for the Commission to effectively carry out dispute conciliation, a conciliation division consisting of either one or three or more members, including one qualified as a lawyer shall be established within the Commission.

(2) The necessary matters regarding organization and administration of the conciliation division pursuant to paragraph (1) shall be set forth by Presidential Decree.

Article 114bis (Application for Conciliation, etc.)

(1) A party wishing to receive conciliation for a dispute may request a conciliation of the dispute by submitting a conciliation application indicating the purpose and cause of the request to the Commission.

(2) Dispute conciliation pursuant to paragraph (1) shall be performed by the conciliation division pursuant to Article 114. [\[This article added on April 22, 2009\]](#)

Article 115 (Closed Meetings)

The conciliation process shall be closed in principle: *Provided*, That the head of the conciliation division may permit a person to attend a conciliation meeting whom he/she deems as appropriate with the consent of the persons concerned.

Article 116 (Limitation on Invoking Statements)

Statements made by persons concerned or interested persons during the course of conciliation shall not be invoked during litigation or arbitration proceedings.

Article 117 (Conclusion of a Conciliation)

(1) The conciliation shall be concluded by writing the terms of agreement between the parties in a protocol.

(2) The protocol pursuant to paragraph (1) shall have the same effect as a consent judgment, unless it is concerned with matters which are outside the capacity of the parties to dispose of.

Article 118 (Expenses of Conciliation, etc.)

(1) The expenses of conciliation shall be borne by the requesting party: *Provided*, That if conciliation is reached, the expenses shall be borne by both parties in equal shares, unless otherwise stipulated.

(2) The necessary matters for the request and procedures of conciliation and payment methods of conciliation expenses shall be set forth by Presidential Decree. [<Added on April 22, 2009>](#)

(3) The amount of conciliation expenses pursuant to paragraph (1) shall be determined by the Commission. [<Amended on April 22, 2009>](#)

[\[Title amended on April 22, 2009\]](#)

Article 119 (Appraisal)

(1) The Commission may conduct appraisals in any of the following cases [<Amended on April 22, 2009>](#):

1. If requested by courts, investigative institutions, etc. to conduct appraisals on copyright infringement matters, etc. for the purpose of trials or investigations; and

2. If requested by both parties in dispute conciliation to conduct appraisals on programs, electronic information about programs, etc. for dispute conciliation under Article 114-2.

(2) The necessary matters concerning procedures and methods of conducting appraisals pursuant to paragraph (1) shall be set forth by Presidential Decree.

(3) If the Commission conducts appraisals pursuant to paragraph (1), it may receive appraisal fees, and the amount of fees shall be determined by the Commission.

Article 120 (Copyright Information Center)

(1) In order to effectively perform the duties prescribed in subparagraphs 7 and 8 of Article 113, the Copyright Information Center shall be established within the Commission. [<Amended on April 22, 2009>](#)

(2) The necessary matters for the operation of the Copyright Information Center shall be set forth by Presidential Decree. [<Added on April 22, 2009>](#)

Article 121 Deleted [<April 22, 2009>](#)

Article 122 (Subsidy for Expenses, etc.)

(1) The national government may subsidize or aid a portion of expenditures necessary to operate the Commission within budget limits. <Amended on April 22, 2009>

(2) An individual, a legal person, or an organization may donate money or other properties to the Commission in order to support the implementation of its tasks pursuant to subparagraphs 3, 5, and 8 of Article 113.

(3) A donation made pursuant to paragraph (2) shall be managed in a separate account, and matters concerning the use of the donation shall be subject to the approval by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

CHAPTER 9. REMEDIES FOR INFRINGEMENT OF RIGHTS

Article 123 (Right to Demand Suspend of Infringement, etc.)

(1) Any person who holds a copyright or other rights protected under this Act (excluding rights covered under Articles 25, 31, 75, 76, 76bis, 82, 83, and 83bis; hereinafter the same shall apply to this Article) may demand a person infringing on his/her rights to suspend against, and demand a person potentially attempting to infringe on his/her rights to take preventive measures or to provide a security for compensation for possible damages. <Amended on March 25, 2009>

(2) If a person who holds a copyright or other rights protected under this Act makes a demand pursuant to paragraph (1), he/she may demand destruction of the goods made by the act of infringement, or other necessary measures.

(3) In the cases of paragraphs (1) and (2), or in the case where a criminal indictment under this Act has been filed, on an application of a plaintiff or an accuser, the court may, with or without imposing provision of a security, issue an order to temporarily cease the act of infringement, seize the goods made by the act of infringement, or take other necessary measures.

(4) With respect to paragraph (3), in the case where a final conclusive ruling is made that no infringement on a copyright or other rights protected under this Act has occurred, the applicant shall compensate for the damages caused by his/her application.

Article 124 (Acts Deemed to constitute infringement)

(1) Any act that falls under any of the following shall be deemed as an infringement on copyrights or other rights protected under this Act <Amended on April 22, 2009>:

1. The importation into the Republic of Korea, for the purpose of distribution therein, of goods which would constitute an infringement on copyrights or other rights protected under this Act, if they were made in the Republic of Korea at the time of such importation;

2. The possession, for the purpose of distribution, of goods produced by any act that constitutes an infringement on copyrights or other rights protected under this Act (including those imported as provided in the foregoing Subparagraph 1) with the knowledge of such infringement; and

3. The use for business of copies of a program produced by infringing on the copyright of the program (including imported objects pursuant to subparagraph 1) by a party who acquired it with the knowledge of such infringement.

(2) Any act of using a work in a manner defaming the honor of its author shall be deemed to constitute infringement of his/her moral rights. <Amended on June 30, 2011>

(3) Deleted <June 30, 2011>

Article 125 (Claim for Compensation for Damages)

(1) Where the owner of author's property rights or other rights (excluding author's and performer's moral

rights) protected under this Act (hereinafter referred to as “owner of author’s property rights, etc.”) claims compensation for damages that he/she sustained by the act of infringement from a person who has infringed on his/her rights intentionally or negligently, the amount of gain shall be presumed to be the amount of damages that the owner of author’s property rights, etc. sustained, if the infringer has made a gain by his/her act of infringement.

(2) Where the owner of author’s property rights, etc., claims compensation for damages that he/she sustained by the act of infringement from a person who has infringed on his/her rights intentionally or negligently, the amount which he/she would normally receive by exploiting his/her rights may be claimed as the amount of damages sustained by the owner of author’s property rights, etc.

(3) Notwithstanding Paragraph (2), if the amount of damages that the owner of author’s property rights, etc. sustained exceeds the amount as prescribed in Paragraph (2), he/she may also claim the amount in excess as compensation for the damages.

(4) Any person who infringes upon registered copyrights, exclusive rights of publication (including those applied mutatis mutandis pursuant to Articles 88 and 96), publication rights, neighboring rights, or rights of database producers shall be presumed to have been negligent in his/her act of infringement.

[<Amended on April 22, 2009; December 2, 2011>](#)

Article 125bis (Claim for Statutory Damages)

(1) Owner of author’s property rights, etc. may demand of a person who has infringed on his/her rights, intentionally or negligently, reasonable compensation of no more than KRW 10 million for each infringed work, etc. (no more than KRW 50 million for each infringed work, etc. in the case of intentional infringement on rights for the purpose of profit-making) instead of compensation for the actual damages or the amount of damages determined pursuant to Article 125 or 126, before the proceedings of the relevant trial is concluded.

(2) In the case of applying paragraph (1), compilation works involving two or more works and derivative works shall be considered as a single work.

(3) In order for an owner of author’s property rights, etc. to make a demand pursuant to paragraph (1), the works, etc. shall be registered pursuant to Articles 53 to 55 (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 90 and 98) before such an act of infringement occurs.

(4) In the case that a claim is presented pursuant to Paragraph (1), the court may recognize a reasonable amount of damages within the value set forth in Paragraph (1), in light of the argument and results of an examination of the evidence.

[\[This article added on December 2, 2011\]](#)

Article 126 (Recognition of the Amount of Damages)

In the cases where damage is recognized but difficult to estimate the amount of damages pursuant to Article 125, the court may recognize a reasonable amount of damages by taking into consideration the intent of arguments and the results of an examination of evidence.

Article 127 (Claim for Restoration, etc. of Honor)

An author or a performer may claim a person who has infringed moral rights of author or performer willfully or negligently to substitute for compensation for damages or to take measure necessary to restore his/her honor together with compensation for damages.

Article 128 (Protection of Moral Interests after the Death of an Author)

After the death of an author, his/her bereaved family (the surviving spouse, children, parents, grand children, grand parents, or brothers and sisters) or the executor of his/her will may, pursuant to Article 123, claim compensation from a person who has violated or may potentially attempt to violate the provision of Paragraph (2) of Article 14 with respect to the work concerned, and may, pursuant to Article

127, demand restoration of his/her honor or reputation from a person who has infringed on author's moral rights intentionally or negligently, or who has violated the provision of Paragraph (2) of Article 14.

Article 129 (Infringement of Rights with Respect to a Joint Work)

Each author of, or each owner of author's property rights in a joint work shall be entitled to make, without the consent of the other authors or owners of author's property rights, the demand pursuant to Article 123, and demand compensation for damages pursuant to Article 125 to his/her share in a joint work regarding infringement of the author's property rights.

Article 129 bis (Offer of Information)

(1) In litigation over the infringement of copyrights or other rights protected under this Act, upon request by a party concerned, the court may order the other parties concerned to present any of the following information that he/she holds or knows if it is deemed necessary to gather evidence:

1. Information that may identify a party involved in the infringement or production and distribution of illegal copies

2. Information about routes of production and distribution of illegal copies

(2) Notwithstanding Paragraph (1), the other party concerned may decline to provide the information, in case it falls under any of the following:

1. In the case that any of the following persons could be prosecuted or found guilty

a. The other party concerned

b. A person who is or used to be a relative of the other party concerned

c. Guardian of the other party concerned

2. In the case that it is to protect trade secrets (refer to those pursuant to paragraph (2) of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act. Hereinafter the same shall apply) or privacy, or there is other justifiable reason to decline such an order

(3) In the case that the other party concerned fails to comply with the foregoing order of information provision without any justifiable reason, the court may recognize that the argument of the information by the party concerned is true.

(4) The court may demand relevant information of the other party concerned if it is deemed necessary to see if there is a justifiable reason pursuant to subparagraph 2 of paragraph (2). In such a case, the information shall not be revealed to anybody else, unless it is particularly necessary to listen to the opinion of the party concerned who requested such information or his/her agent to confirm whether there is a justifiable reason.

[\[This article added on December 2, 2011\]](#)

Article 129ter (Order to keep Confidentiality)

(1) In a litigation of infringement of copyrights or other rights protected under this Act (excluding rights to compensation under Articles 25, 31, 75, 76, 76bis, 82, 83, 83bis, and 101ter. Hereinafter the same shall apply), upon application by the party concerned, the court may order the other party concerned, an agent representing the other party concerned, and others who have learned trade secrets of the party concerned due to the litigation to neither use the confidential information for purposes other than the litigation nor disclose it to those who are not subject to the relevant orders pursuant to this paragraph, if the applicant provides explanations for all of the following subparagraphs, provided that this paragraph shall not apply if the other party concerned, an agent representing the other party concerned, and others who have learned trade secrets due to the litigation already obtained the confidential information through other methods than perusing the preparatory proceedings and the examination of evidence pursuant to subparagraph 1 below before the stated application is submitted:

1. That the trade secrets are included in the preparatory proceedings that were already submitted or will be submitted, or evidence that was already investigated or will be investigated (including the information provided pursuant to paragraph (4) of Article 129bis)

2. That the use or disclosure of the trade secrets pursuant to subparagraph 1 for purposes other than the litigation should be limited to prevent such use or disclosure from causing negative effects on the business of the party concerned

(2) The application for the order pursuant to paragraph (1) (hereinafter referred to as “order of confidentiality”) shall be submitted in writing that shall include the following:

1. The party who is subject to the order

2. Facts that are sufficient to identify the trade secrets subject to the order to keep confidentiality

3. Explanations concerning each subparagraph of paragraph (1)

(3) A written order to keep confidentiality shall be delivered to the party subject to the order, after such an order of confidentiality is determined.

(4) An order of confidentiality shall take effect from the time when the written order pursuant to paragraph (3) is delivered to the party subject to it.

(5) A complaint may be lodged immediately against the ruling that rejects or dismisses an application for an order of confidentiality.

[\[This article added on December 2, 2011\]](#)

Article 129^{quarter} (Cancellation of an Order of Confidentiality)

(1) The party who applied for or received an Order of Confidentiality may request the court where the litigation records are kept (or the court that gave the order of confidentiality, if there is no such a court) to revoke the order, in the case that the party fails to or becomes unable to meet the requirements pursuant to paragraph (1) of Article 129^{ter}.

(2) The court ruling on the application for cancellation of an order of confidentiality shall be delivered in writing to the applicant and the other party concerned.

(3) A complaint may be lodged immediately against the court ruling of the application for cancellation of an order of confidentiality

(4) The effect of a court ruling to revoke an order of confidentiality shall take effect only after it is confirmed.

(5) The court that has made a ruling to revoke an order of confidentiality shall immediately inform any other party, if there is any, subject to the order regarding the trade secrets beyond the applicant and the other party of the purpose of the trial

[\[This article added on December 2, 2011\]](#)

Article 129^{quinquies} (Notice of Application Including Perusal of Litigation Records, etc.)

(1) In the case where a decision has been made pursuant to paragraph (1) of Article 163 of the Civil Procedure Act on the documents of litigations (excluding those where all the orders of confidentiality have been revoked) and the party concerned applies for perusal, etc. of parts containing confidential information under the stated paragraph through a person not subject to the order of confidentiality regarding the litigation, a fourth, fifth, sixth, or seventh grade official with the court (hereinafter referred to as “fifth grade court official, etc.”) shall inform the person who made the application pursuant to paragraph (1) of Article 163 of the Civil Procedure Act (excluding the applicant for the perusal, etc.) of its purpose immediately after such an application for perusal, etc. is submitted.

(2) In the case of paragraph (1), a fifth grade court official, etc. shall not allow the applicant to peruse etc. the parts containing confidential information pursuant to paragraph (1) until after two weeks from the time of application under the stated paragraph (until the time when the court ruling is confirmed if an application for an order of confidentiality is made during the stated period for the person who conducted the application).

(3) Paragraph (2) shall not apply to the case where all the parties concerned with the application pursuant to paragraph (1) of Article 163 of the Civil Procedure Act agree to allow the applicant for the perusal, etc. pursuant to the paragraph (1) to peruse, etc. the parts containing confidential information.

[\[This article added on December 2, 2011\]](#)

CHAPTER 10. SUPPLEMENTARY PROVISIONS

Article 130 (Delegation and Entrustment of Authority)

The Minister of Culture, Sports and Tourism may delegate a part of the authority under this Act to the Special Metropolitan City Mayor, mayors of other Metropolitan Cities, governors of Provinces and Special Self-governing Provinces, or entrust the authority to the Commission or copyright related organizations, as prescribed by Presidential Decree. <Amended on February 29, 2008; April 22, 2009>

Article 131 (Legal Interpretation as Public Officials in the Application of Penal Provisions)

The members and staffs of the Commission shall be deemed as public officials if Articles 129 to 132 of the Criminal Act are applied to them.

Article 132 (Fees)

Any person who applies for the particulars falling under any of the following under this Act shall pay fees as prescribed by the Ordinance of the Minister of Culture, Sports and Tourism <Amended on February 29, 2008; April 22, 2009; December 2, 2011>:

1. A person who applies for approval of statutory license pursuant to Articles 50 to 52 (including those cases where the provisions thereof apply mutatis mutandis pursuant to Articles 89 and 97);
2. A person who applies for registrations (including those cases where the provisions thereof apply mutatis mutandis pursuant to Articles 90 and 98), modifications of the registered matters, perusal of registers, and issuance of copies of registers pursuant to Articles 53 to 55; and
3. A person who applies for permission for or reports of copyright management services pursuant to Article 105.

Article 133 (Collection, Destruction and Deletion of Illegal Copies)

(1) The Minister of Culture, Sports and Tourism, the Special Metropolitan City Mayor, other Metropolitan City mayors, governors of Provinces and Special Self-governing Provinces, mayors of Cities, or heads of Guns and Gus (referring to the heads of self-governing districts) may demand competent public officials collect, abandon, or delete copies (excluding those interactively transmitted through information and telecommunications networks) infringing on copyrights and other rights protected under this Act, or tools, devices, information and programs that are made for the purpose of circumventing technological protection measures for works, etc., if they are found, in accordance with the procedures and methods as prescribed by Presidential Decree. <Amended on February 29, 2008; April 22, 2009>

(2) The Minister of Culture, Sports and Tourism may entrust duties pursuant to paragraph (1) to an organization determined by Presidential Decree. In this case, the persons who engage in such duties shall be deemed as public officials. <Amended on February 29, 2008>

(3) In the case where the competent public officials, etc. collect, destroy or delete pursuant to paragraphs (1) and (2), the Minister of Culture, Sports and Tourism may ask appropriate organizations to cooperate, if necessary. <Amended on February 29, 2008; April 22, 2009>

(4) Deleted <April 22, 2009>

(5) The Minister of Culture, Sports and Tourism may establish and operate an organization necessary for the duties pursuant to paragraph (1). <Amended on February 29, 2008 and April 22, 2009>

(6) In the event of conflict between paragraph (1) to (3) and the provisions of other laws, this Act shall prevail to the extent of the conflict. <Amended on April 22, 2009>

Article 133bis (Order to Delete Illegal Copies, etc. through Information and Communications Networks, etc.)

(1) In the case where copies or information infringing on copyrights and other rights protected under this Act, programs or information which incapacitates technological protection measures (hereinafter referred to as "illegal reproductions, etc.") are interactively transmitted through information and communications networks, the Minister of Culture, Sports and Tourism may order online service providers to take any of the following measures as prescribed by Presidential Decree after deliberation by the Commission:

1. Warning to and against reproducers and interactive transmitters of illegal copies, etc.;
2. Deletion or suspension of interactive transmission of illegal copies, etc.

(2) If a reproducer or interactive transmitter who received three or more warnings as prescribed pursuant to subparagraph 1 of Paragraph (1) of this Article interactively transmits illegal copies, etc., the Minister of Culture, Sports and Tourism may order online service providers to suspend the account (excluding email exclusive accounts and including other accounts provided by the corresponding online service providers; hereinafter the same shall apply) of the corresponding reproducer or interactive transmitter within a period of no more than six months as prescribed by Presidential Decree after deliberation by the Commission. [< Amended on December 2, 2011 >](#)

(3) An online service provider receiving an order as prescribed pursuant to paragraph (2) shall notify the corresponding reproducer or interactive transmitter of the fact that the corresponding account will be suspended, no later than seven days before such a suspension, as prescribed by Presidential Decree.

(4) If a bulletin board established on an information and communications network of an online service provider (which refers to a bulletin board that provides commercial interests or convenience of use among those under Subparagraph 9, Paragraph (1), Article 2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.; hereinafter the same shall apply) receives three or more orders as prescribed pursuant to subparagraph 2 of Paragraph (1) of this Article and is considered to seriously damage the sound use of copyrighted works, etc. in light of the format of the corresponding bulletin board, the amount or nature of copies posted on it, etc., the Minister of Culture, Sports and Tourism may order the online service provider to suspend all or part of the bulletin board service within a period of no more than six months as prescribed by Presidential Decree after deliberation by the Commission.

(5) An online service provider receiving an order pursuant to paragraph (4) shall post the fact that service of the corresponding bulletin board will be suspended no later than ten days before such a suspension on the website of the corresponding online service provider and the corresponding bulletin board as prescribed by Presidential Decree.

(6) Within five days from receiving an order pursuant to paragraph (1), within ten days from receiving an order under Paragraph (2), and within 15 days from receiving an order under Paragraph (4), online service providers shall notify the Minister of Culture, Sports and Tourism of the consequences of carrying out the order as prescribed by Presidential Decree.

(7) The Minister of Culture, Sports and Tourism shall give an opportunity to submit an opinion in advance to online service providers subject to the order pursuant to paragraph (1), (2) and (4), to reproducers and interactive transmitters with a direct interest in the order pursuant to paragraph (2), and operators of bulletin boards under Paragraph (4). In this case, pursuant to (4) to (6) of Article 22 and Article 27 of the Administrative Procedures Act shall apply mutatis mutandis to the submission of opinions.

(8) The Minister of Culture, Sports and Tourism may establish and operate an organization necessary for the duties pursuant to paragraphs (1), (2) and (4).

[\[This article added on April 22, 2009\]](#)

Article 133ter (Correction Recommendation, etc.)

(1) In the case of investigating the information and telecommunications networks of online service providers and finding that illegal reproductions, etc. were interactively transmitted, the Commission may deliberate on such matters and recommend that the online service providers take correction measures under any of the following:

1. Issuing warnings against reproducers and interactive transmitters of illegal copies, etc.;
2. Deletion or suspension of interactive transmission of illegal copies, etc.; and
3. Suspension of the accounts of reproducers and interactive transmitters which repeatedly transmitted

illegal copies, etc.

(2) Within five days from receiving a recommendation pursuant to subparagraphs 1 and 2 of paragraph (1), and within ten days from receiving a recommendation pursuant to subparagraph 3 of paragraph (1), online service providers shall notify the Commission of the consequences of carrying out the recommendation.

(3) If online service providers fail to follow a recommendation pursuant to paragraph (1), the Commission may request the Minister of Culture, Sports and Tourism to issue an order pursuant to paragraphs (1) and (2) of Article 133*bis*.

(4) If the Minister of Culture, Sports and Tourism issues an order pursuant to paragraphs (1) and (2) of Article 133*bis* pursuant to paragraph (3), deliberation by the Commission is not required.

[\[This article added on April 22, 2009\]](#)

Article 134 (Promotion of an Environment for Sound Use of Works)

(1) The Minister of Culture, Sports and Tourism may conduct projects necessary to promote the fair use of works such as providing information regarding works, etc. on which copyrights have expired. [<Amended on April 22, 2009>](#)

(2) The necessary matters regarding projects pursuant to paragraph (1) shall be set forth by Presidential Decree. [<Amended on April 22, 2009>](#)

(3) Deleted [<April 22, 2009>](#)

[\[The title amended on April 22, 2009\]](#)

Article 135 (Donation of Author's Property Rights, etc.)

(1) An owner of author's property rights, etc. may donate his/her rights to the Minister of Culture, Sports and Tourism. [<Amended on February 29, 2008>](#)

(2) The Minister of Culture, Sports and Tourism may appoint an organization which is capable of fairly managing the rights of works, etc. donated by an owner of author's property rights, etc. [<Amended on February 29, 2008>](#)

(3) The organization appointed pursuant to paragraph (2) shall not use works, etc. for the purpose of making a profit or against the intention of the owner of author's property rights, etc.

(4) The necessary matters with respect to donation procedures, appointment of an organization, etc. pursuant to paragraphs (1) and (2) shall be set forth by Presidential Decree.

CHAPTER 11. PENAL PROVISIONS

Article 136 (Penal Regulations)

(1) Any person who falls under any of the following may be punished by imprisonment for no more than five years or a fine of no more than KRW 50 million, or both [<Amended on December 2, 2011>](#)

1. Any person who infringes upon author's property rights or other property rights protected pursuant to this Act (excluding the rights pursuant to Article 93) by means of reproduction, public performance, public transmission, exhibition, distribution, rental, or production of a derivative work

2. Any person who violates the court order pursuant to paragraph (1) of Article 129*ter* without any justifiable reason

(2) Any person who falls under any of the following may be punished by imprisonment for no more than three years or a fine of no more than KRW 30 million, or both [<Amended on April 22, 2009; June 30, 2011, December 2, 2011>](#):

1. Any person who has defamed an author or performer by infringing on the author's or performer's moral rights;

2. Any person who has made false registrations pursuant to Articles 53 and 54 (including the cases where the provisions thereof apply *mutatis mutandis* pursuant to Articles 90 and 98);

3. Any person who has infringed upon a database producer's rights protected pursuant to Article 93 by means of reproduction, distribution, broadcasting, or interactive transmission;

3bis. Any person who has violated paragraph (4) of Article 103 *ter*.

3ter. Any person who has violated paragraphs (1) or (2) of Article 104*bis* for the purposes of business or making a profit.

3quarter. Any person who has violated Paragraph (1) of Article 104*ter* for the purposes of business or profit-making, provided that this shall not apply if the person was not aware negligently of inducing or hiding infringement of copyrights or other rights protected under this Act

3quinqies. Any person who has committed an act under Subparagraphs 1 or 2 of Article 104*quarter*

3sexies. Any person who has violated Article 104*quinqies*

3septies. Any person who has violated Article 104*septies*

4. Any person who has committed an act deemed to be an infringement pursuant to paragraph (1) of Article 124;

5. Deleted < June 30, 2011>

6. Deleted < June 30, 2011>

[The title amended on December 2, 2011]

Article 137 (Penal Regulations)

(1) Any person who falls under any of the following may be punished by imprisonment for a term of no more than one year or a fine of no more than KRW 10 million <Amended on April 22, 2009; December 2, 2011>:

1. Any person who has made a work public under the real name or pseudonym of a person other than the author;

2. Any person who has publicly staged or transmitted a performance, or distributed copies of the performance under the real name or pseudonym of a person who is not the actual performer;

3. Any person who has violated the provision of Paragraph (2) of Article 14;

3bis. Any person who has committed an act under Subparagraph 3 of Article 104*quarter*

3ter. Any person who has violated the provision of Article 104*sexies*

4. Any person who has operated copyright trust services without a permit pursuant to paragraph (1) of Article 105;

5. Any person who has committed an act deemed to be an infringement pursuant to paragraph (2) of Article 124;

6. Any person, who has interfered with the business of an online service provider by willfully requesting such online service provider to stop or resume reproduction or interactive transmission pursuant to paragraph (1) or (3) of Article 103 with the knowledge that he/she does not have the authority to do so; and

7. Any person who has violated Article 55*bis* (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 90 and 98)

(2) Any person who has attempted to commit an act pursuant to subparagraph *3ter* of Paragraph (1) shall be punished. <Added on December 2, 2011>

[The title amended on December 2, 2011]

Article 138 (Penal Regulations)

Any person who falls under any of the following shall be punishable by a fine of no more than KRW 5 million <Amended on December 2, 2011>:

1. Any person who has violated paragraph (4) of Article 35;

2. Any person who has not indicated the sources in violation of Article 37 (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 87 and 94);

3. Any person who has not indicated the owner of author's property rights in violation of paragraph (3) of Article 58 (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 63*bis*, 88 and 96);

4. Any person who has not notified the relevant author in violation of paragraph (2) of Article 58*bis* (including the cases where the provisions thereof apply *mutatis mutandis* pursuant to Articles 63*bis*, 88 and 96); and

5. Any person who has engaged in copyright agency or brokerage services without reporting as prescribed pursuant to paragraph (1) of Article 105, or who has continued the services after being ordered to close the services pursuant to paragraph (2) of Article 109.

[The title amended on December 2, 2011]

Article 139 (Forfeiture)

Copies, and major tools and materials made by the infringement of copyrights or other rights protected under this Act, which are owned by the infringing person, printer, distributor, or public performer shall be forfeited. <Amended on December 2, 2011>

[This article wholly amended on June 30, 2011]

Article 140 (Complaints)

Crimes prescribed in this Chapter shall be prosecuted only when a party makes a complaint, except in any of the following cases: <Amended on April 22, 2009; December 2, 2011>

1. In the case where a person commits an act falling pursuant to subparagraph 1 of paragraph (1) of Article 136, and subparagraphs 3 and 4 of paragraph (2) of Article 136 habitually or for the purpose of making a profit (an act pursuant to subparagraph 3 of paragraph (1) of Article 124 shall not face punishment against the explicit intent of the person who sustained damages; and

2. In the cases pursuant to subparagraph 2 and subparagraphs 3*bis* to 3*septies* of paragraph (2) Article 136, subparagraphs 1 to 4, 6 and 7 paragraph (1) of Article 137, and subparagraph 5 of Article 138;

3. Deleted <December 2, 2011>

Article 141 (Joint Penal Provisions)

If a representative of a legal person, or an agent, employee, or other employed persons of a legal person or an individual has committed a crime as prescribed under this Chapter with respect to the duties of the legal person or the individual, the fine prescribed under each of the Articles concerned shall be imposed on such a legal person or an individual in addition to the punishment of the offender: *Provided*, That the foregoing shall not be applied if the legal person or individual was not idle in paying considerable attention and conducting supervision to prevent such an offense. <Amended on April 22, 2009>

Article 142 (Fine for Negligence)

(1) A person who fails to take necessary measures pursuant to paragraph (1) of Article 104 shall be paid a fine for negligence of no more than KRW 30 million. <Amended on April 22, 2009>

(2) A person who falls under any of the following shall be paid a penalty of no more than KRW 10 million. <Amended on April 22, 2009; December 2, 2011>:

1. Any person who has failed to execute the order of the Minister of Culture, Sports and Tourism pursuant to paragraph (2) of Article 103*ter*;

2. Any person who has failed to fulfill his/her obligations pursuant to Article 106;

3. Any person who uses the name of the Korea Copyright Commission in violation of paragraph (4) of Article 112;

4. Any person who has failed to execute the order of the Minister of Culture, Sports and Tourism pursuant to paragraphs (1), (2) and (4) of Article 133*bis*; and

5. Any person who has failed to make a notification pursuant to paragraph (3) of Article 133*bis*, make a posting pursuant to paragraph (5) of the same Article, or make a notification pursuant to paragraph (6) of the same Article.

(3) The fine for negligence pursuant to paragraphs (1) and (2) shall be levied and collected by the

Minister of Culture, Sports and Tourism as prescribed by Presidential Decree. <Amended on April 22, 2009>

(4) Deleted < April 22, 2009>

(5) Deleted < April 22, 2009>

ADDENDA <No. 11110, December 2, 2011>

Article 1 (Date of Enforcement)

This Act shall come into force on the date when the “Free Trade Agreement between the Republic of Korea and the United States of America, and Exchange of Letters on Free Trade Agreement between the Republic of Korea and the United States of America” take effect: *Provided*, That the amended paragraph (2) of Article 64 and Article 86 shall take effect on August 1, 2013.

Article 2 (Application of Certain Provisions)

Amendments under Articles 103*ter*, 125*bis*, and 129*bis* through 129*quinquies* shall apply to the initial occurred infringement on rights or violation of obligations after this Act is executed.

Article 3 (Transitional Measures Concerning the Scope of Application)

This Act shall not apply to the copyright or other rights that are protected under this Act and expired, in whole or in part, or the works, etc. that were not protected under the former provisions before the enforcement of this Act.

Article 4 (Special Provisions Concerning Protection Period of Neighboring Rights)

(1) Notwithstanding Article 3, the neighboring rights that arose between July 1, 1987 and June 30, 1994 under Addenda paragraph (3) of Article 2 of the wholly amended Copyright Act (Act No. 8101) shall remain effective for fifty years from the year after the year when such a right arose pursuant to Article 70 of the amendment of the Copyright Act (Act No. 4717. Hereinafter referred to as “the same act” in this article) that was enforced on July 1, 1994.

(2) Among the neighboring rights that arose between July 1, 1987 and June 30, 1994 under Addenda Paragraph (3) of the same act, those that expired with the lapse of the period of protection of twenty years under the former act (referring to the Copyright Act that preceded the amendment of the Copyright Act (Act No. 4717) entering into force. Hereinafter the same applies in this Article) before this Act enters into force shall be reinstated from the enforcement date of this Act and belong to the owner of the neighboring rights. In such a case, the neighboring rights shall remain effective for the remainder of the period on the assumption that the rights would have been protected for fifty years from the year after the year when such rights first arose.

(3) Any act of using performance, phonogram, and broadcasting of which the neighboring rights have been reinstated pursuant to paragraph (2) before this Act enters into force shall not be considered as infringement of rights under this Act.

(4) The copies that were made before this Act enters into force by using the performance, phonogram, and broadcasting of which the neighboring rights under Paragraph (2) expired in accordance with the former Act may be continuously distributed for two years after this Act enters into force without authorization from the owner of the neighboring rights.

Article 5 (Transitional Measures Concerning the Limitation of Obligations of Online Service Providers, etc.)

As for the limitations on the liability of online service providers regarding the infringement of copyrights or other rights protected under this Act that occurred before the enforcement of this Act, the former regulations shall apply despite the amendment of Articles 102 and 103*bis*.

Article 6 (Transitional Measures Concerning the Exclusive Rights of Publication)

The former regulations shall apply to the exclusive rights of program publication that were established and registered before the enforcement of this Act

Article 7 (Transitional Measures Concerning Penal Provisions)

The penal provisions of the former regulations shall apply to the acts that were committed before the enforcement of this Act

Article 8 (Amendment of Other Laws)

The Local Tax Act shall be amended as follows:

“copyright, publication right” in parts other than the items pursuant to subparagraph 10 of paragraph (1) of Article 28 shall change to “copyright, exclusive right of publication (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 88 and 96), publication right”; “Articles 54, 63*ter*, 90, and 98” under Item b of the stated Subparagraph shall change to “Article 54 (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 90 and 98); “exclude registration of program” shall change to “exclude registration of program, exclusive right of publication, publication right”; and “registration of program pursuant to Article 54 and pursuant to paragraph (6) of Article 101*sexies* of the same act” in Item c of the stated subparagraph shall change to “program, exclusive right of publication, publication right pursuant to Article 54 (including the cases where the provisions thereof apply mutatis mutandis pursuant to Articles 90 and 98)”