

A Study on the Concurrence of Exclusive Music Licensing and Application of Competition Law under the Development of Digital Technology

ABSTRACT

Keywords : copyright ; exclusive license ; fair competition

The collective management organizations of copyright originated from promoting the use of music works developed differently in different countries. Some also adopted the strategy of expanding the scope of application of compulsory authorization (statutory authorization) in copyright law to promote the use of music works. Although there no longer has a situation for music streaming platforms monopolizing the use of music in domestic market, but because of the accompaniers monopolize music through exclusive authorization, a dispute over whether to amend the copyright law to extend the compulsory authorization system of music copyright to the accompaniers has occurred.

The purpose of the Fair Trade Law is to prevent any act restricting or impeding fair competition, and according to Article 45, such act does not prohibit the proper exercise of rights under the copyright law.

The copyright law gives the copyright owners the relevant exclusive rights, on the other hand, it also restricts their rights to achieve the public welfare, and in essence, it has an appropriate balance mechanism. If it can reach the fair competition of the industry in the system, it does not need the fair trade law or its competent authority to intervene in the industrial order.

By observing the development of copyright law in various countries, if consensual authorization can achieve the purpose of widely and legally using works, we should respect the market mechanism, and there will be no need to introduce compulsory authorization or legal authorization system. When the authorization market fails and the works cannot be widely and legally used, the copyright law is duty bound to play a balanced role, and the compulsory authorization or legal authorization system will become a necessary means.