

Judgments of Tokyo District Court, 29th Civil Division

Date of the Judgment: 2005.12.12

Case Number: 2000(Wa)No.27552

Title (Case):

A case wherein, the court, with respect to 11 computer programs for the analysis of satellite orbit and attitude (hereinafter referred to as the "Programs"), dismissed all of the plaintiff's claims for declaration of his/her ownership of copyrights and moral rights in the Programs, holding that some of the Programs were not created by the plaintiff, and that all of the Programs are works made for hire, of which the author is the corporation which was the employer of the plaintiff at the time when the Programs were created and is the predecessor of one of the defendants.

Summary of the Judgment:

In this case, the plaintiff X, who is an employee of the defendant Y1, which has been engaged in research and development as well as the implementation of satellites, including their development and launch, requested to the court to award declaration of his ownership of copyrights and moral rights in the Programs against the defendants Y1 and Y2, the latter provides support for the creation of satellite control programs, etc. on consignment from Y1. However, the defendants did not agree with X's assertion for his creatorship of the Programs, and insisted that even if some of the Programs were created by X, they were works made for hire and authorship thereof should belong to the corporation which was the employer of X at the time when the Programs were created, and is the predecessor of Y1 (hereinafter referred to as the "Agency"), and that therefore, copyrights for the Programs now belong to Y1, which had taken over the rights and obligations of the Agency.

The court recognized that some of the Programs had been created by X independently or in cooperation with others while it found that X could not be regarded as the creator of others.

In terms of whether or not the Programs may be regarded as works made for hire, X asserted that the requirements to be satisfied for a work to be regarded as being made for hire (i.e., being created by a person employed by a corporation, etc., being created in the course of the person's duty, being created on the initiative of the corporation, etc., and being made public under the name of the corporation, etc.) was not satisfied in this case, because the Programs were not created in the course of his duty at the Agency or on the initiative of the Agency, by arguing that: X completed the Programs almost alone despite opposition from the Agency, the defendants had not even known of some of the Programs until this lawsuit was instituted, and one of the Programs was completed during his study in France (on a leave). The court, after having found the

facts around the time when the Programs were created, determined that all of the Programs, even one created during his study in France, could be regarded as having been created in the plaintiff's duty at the Agency, taking into consideration the characteristics and purpose of his study in France. Moreover, the court opined that since the business of development of satellites, etc. belongs to the exclusive jurisdiction of the Agency, the connection between affairs related to the development of satellites and the Agency should be regarded as being stronger than those between other ordinary corporations and the affairs related to their businesses, and then concluded that the creation of the Programs could be regarded as being naturally expected in the business of the development of satellites, etc., and that the decision to create the Programs could be regarded as being made on the initiative of the Agency, even if the Agency did not give any specific instructions on the creation of the Programs or remained ignorant about the presence of the Programs after their creation.

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