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judgedate

2022.10.24

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caseid

2021(Ju)1112

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reporter

Minshu Vol. 76, No. 6

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casetitle

Judgment concerning the case in which the court determined that, in relation to musical performances during lessons by persons who have concluded contracts on the teaching of musical performance techniques, etc. with music school operators (students), the operators cannot be considered to be the actors of exploitation of musical works

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casename

Case seeking a declaratory judgment of non-existence of claims pertaining to the use of works at music schools

caseresult

Judgment of the First Petty Bench, dismissed

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court_second

Intellectual Property High Court, Judgment of March 18, 2021

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summary_judge

Where persons who have concluded contracts on the teaching of musical performance techniques, etc. with music school operators (students) pay lesson fees to the aforementioned operators and play assigned pieces of music: including musical works managed by a copyright manager, during lessons for the teaching of musical performance techniques, etc. under the instruction and guidance of teachers based on the aforementioned contracts, under the circumstances held in this judgment, including those mentioned in (1) to (3) below, the operators cannot be considered to be the actors of exploitation of the aforementioned musical works in relation to musical performances by students during the lessons.

(1) Students give musical performances for the purpose of acquiring and improving musical performance techniques, etc. by receiving the teaching from teachers, and playing the aforementioned assigned pieces of music is a mere means for achieving that purpose.

(2) Musical performances by students are established only by students' acts without requiring teachers' acts. Even if a teacher plays an accompaniment and plays back

various sound recordings, these acts only assist musical performances by students.

(3) Teachers' acts of selecting assigned pieces of music and providing instruction and guidance on musical performances by students are merely to help students achieve the purpose mentioned in (1) above.

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references

Article 22 of the Copyright Act

Copyright Act

(Stage Performance Rights and Musical Performance Rights)

Article 22The author of a work has the exclusive right to give a stage performance or musical performance of the work with the purpose of having it seen or heard directly by the public (hereinafter referred to as "publicly").

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maintext

The final appeal is dismissed.

The costs of the final appeal shall be borne by the appellant of final appeal.

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reason

Concerning Reason II for a petition for acceptance of final appeal stated by the counsel for final appeal, TANAKA Yutaka, et al.

1. The outline of facts lawfully determined by the court of prior instance is as follows.

(1) The appellant is a copyright manager provided in Article 2, paragraph (3) of the

Copyright Management Business Act and manages copyrights for musical works by receiving the entrustment of copyrights from copyright owners (hereinafter musical works managed by the appellant are referred to as the "Managed Works").

(2) The appellees are those who operate music schools and provide, by themselves or by using their employees, etc. as teachers, lessons for teaching music and techniques for musical performances (including singing; the same applies hereinafter) (hereinafter merely referred to as "lessons") to persons who have concluded contracts concerning the teaching of the aforementioned musical performance techniques, etc. with the appellees (hereinafter referred to as "students").

Based on the aforementioned contracts, students pay lesson fees to the appellees and play assigned pieces of music including the Managed Works (hereinafter merely referred to as "assigned pieces of music") during lessons under the instruction and guidance of teachers.

2. This is a case against the appellant as the defendant in which the appellees seek a declaratory judgment of non-existence of the appellant's claims against the appellees for compensation for loss or damage based on a tort, etc. on the grounds of infringement of copyrights (musical performance rights) for the Managed Works. The issue of this case is whether the appellees are the actors of exploitation of the Managed Works in relation to musical performances by students during lessons.

3. The counsel for final appeal argues that the determination of the court of prior instance contains an error in the interpretation and application of laws and regulations and a violation of a judicial precedent in that it determined that the appellees cannot be considered to be the actors of exploitation of the Managed Works that are played by their students though students give musical performances under the strong management and control of teachers based on the aforementioned contracts concluded

with the appellees and the appellees gain economic benefits from assigned pieces of music being played by students at music schools that they operate for commercial purposes.

4. In determining the actor of exploitation of a musical work in the form of musical performance, it is reasonable to take into consideration various circumstances, including the purpose and form of the musical performance and the details and extent, etc. of the actor's involvement in the musical performance. Students give musical performances during lessons at music schools operated by the appellees for the purpose of acquiring and improving musical performance techniques, etc. by receiving the teaching from teachers, and playing assigned pieces of music is a mere means for achieving that purpose. Thus, musical performances by students are established only by students' acts without requiring teachers' acts. In relation to the aforementioned purpose, only musical performances by students have an important meaning. Even if a teacher plays an accompaniment and plays back various sound recordings, these acts only assist musical performances by students. In addition, teachers select assigned pieces of music and provide their students with instruction and guidance on musical performances of those pieces of music. However, these acts are merely to help students achieve the aforementioned purpose, and students just voluntarily and independently play assigned pieces of music and are not forced to do so. Incidentally, although the appellees receive payment of lesson fees from their students, lesson fees are considerations for receiving the teaching of musical performance techniques, etc. and cannot be considered as those for playing assigned pieces of music.

In comprehensive consideration of these circumstances, the appellees cannot be considered to be the actors of exploitation of the Managed Works in relation to musical performances by students during lessons.

5. The determination of the court of prior instance to the same effect as above is legitimate and can be accepted. All the judicial precedents cited in the counsel's arguments are irrelevant in this case because they addressed different types of facts. The arguments made by the counsel are not acceptable.

Accordingly, the Court unanimously decides as set forth in the main text of the judgment.

presiding

Justice MIYAMA Takuya

Justice YAMAGUCHI Atsushi

Justice YASUNAMI Ryosuke

Justice OKA Masaaki

Justice SAKAI Toru

note_other

(This translation is provisional and subject to revision.)