ABSTRACT
THE SCOPE OF COPYRIGHT PROTECTION FOR PROGRAM MENU COMMAND HIERARCHY

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A program menu command hierarchy is a product of its computer program. Computer programs are the products of the software industry, an industry important to the Korean economy as well as the global economy. Ever since software began to be marketed to end users, software developers have been concerned with how to protect it, and courts have struggled with how to provide legal protections for it.

Appropriate protection is essential because users become accustomed to the user interface of the software they use and are reluctant to switch to a computer program with a different user interface.

The end purpose of computer program is to achieve a utilitarian result, i.e., the computer's performance of logical operations in a way that produces the desired practical consequence. One cannot compare, therefore, the underlying processes of a computer program with, say, the underlying plot structure of a novel or a screenplay of a movie. Copyright is broad, long-lasting, easily obtainable protection. The copyright lasts for approximately 50 years. such a broad government-sanctioned monopoly must be secured, if at all, through the patent system. Patents on "menu
command hierarchy" are difficult to obtain and last a relatively short period of time (20 years or less).

Copyright protection for screen displays does not depend on the protection of "non-literal elements" of the computer program. Rather, copyright protects against the unauthorized reproduction of "certain types of screen displays," that are "copyrighted separately as an audivisual, pictorial, graphic works". Screen displays assumably can be protected because the way the screens look has little bearing on how users control the program. Therefore, in screen displays, the scope of the copyright protection first must be examined through Copyright Law. But in program menu command hierarchy, except for screen displays, the scope of copyright protection must be examined through Computer Program Protection Law.

In our country there is no examples of opinions or cases for menu command hierarchy. But in United States there are many cases for menu command hierarchy and among all the most notable case is Lotus Case. this thesis mostly treats the Lotus Cases. In screen displays this thesis treats Apple Case that held the scope of protection for screen displays

The contents of this thesis are as follows
In Chapter 1, the purpose, boundary and the method of this thesis are discussed.
In Chapter 2, Prior to discussing the scope of copyright protection for program menu command hierarchy, it may be useful to explain exactly what are menu command hierarchy and why the appropriate protection is essential. It may also be useful to explain why this issues is important to the software industry and
the average computer user.

In Chapter 3, the scope of protection for screen displays through Copyright Law is discussed. In United States case law dealing with the copyright protection of screen displays offers some confirmation that at least the visual screen display portion of a computer program’s user interface can be protected by copyright. Particularly in Apple Case screen display is protected narrowly due to the functionality. Literary works is artistic but screen displays are functional. Due to the functionality screen displays are protected narrowly.

In Chapter 4, the scope of protection for program menu command hierarchy through Computer Program Protection Law is discussed (except for screen displays). The thesis of this chapter are as follows.

A menu command hierarchy is too abstract an element of a computer program to be protectable by copyright law. also, a menu command hierarchy is unprotectable as a constituent element of a method of operating a computer to perform program functions. The menu command hierarchy is unprotectable as "a fundamental part of the functionality" of the system. The menu command hierarchy is an inseparable part of a language for constructing macros, and languages are uncopyrightable under § 102(b). The menu command hierarchy is unprotectable by copyright law because it operates as a program-to-program interface in relation to the execution of macros, and is, therefore, among the elements of the program whose design was constrained by external factors. the menu command hierarchy is unprotectable by copyright law because it is an inseparable part of the behavior of the program which is an unprotectable process.
When user interfaces of computer programs lie closer to the functional than to the aesthetic end of the spectrum of potential expressiveness, as the Lotus 1-2-3 user interface does, courts should employ a virtual identity standard in judging copyright infringement.

Finally in our country Computer Program Protection Law excludes apparently "protocol" from the scope of protection for computer programs. The discussion for the scope of copyright protection in the program menu hierarchy in United States also is valuable for the interpretation of Computer Program Protection Law. The enacting of Computer Program Protection Law followed United States Copyright Law in 1987. In our country "protocol" cannot be protected through Computer Program Protection Law regardless of "expressiveness" as in United States. In Chapter 5, the conclusion of this thesis is discussed.

In conclusion, copyright protection for screen displays does not depend on the protection of "non-literal elements" of the computer program. Copyright protects against the unauthorized reproduction of "certain types of screen displays," that are "copyrighted separately as an audiovisual, pictorial, graphic works". But in comparison to literary works screen displays are functional. Due to this functionality screen displays assumably are protected narrowly. Except for screen displays, in program menu command hierarchy the scope of protection must be examined through Computer Program Protection Law. The menu command hierarchy is unprotectable as "a fundamental part of the functionality" of the system. Also in our country program menu command hierarchy cannot be protected because Computer
Program Protection Law excludes apparently "protocol" from the scope of protection for computer programs,

Keywords : Program menu command hierarchy, The method of operation, Copyright 102(b), Screen display, User interface, Protocol.

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