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Exhaustion Doctrine and Acquisition in Good Faith

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Abstract

It is mentioned in the two judgments of the Intellectual Property Court of Taiwan that the exhaustion doctrine for the rental right depends on whether the holder of the original work or lawful copy is owner. The ownership is determined in accordance to the property law, so that the provision of gaining property with good faith is also applicable for the exhaustion doctrine. Therefore, if the lawful copy is available in the market without the agreement of the copyright holder, the holder of the lawful copy will become owner and can sell the copy legally without gaining the agreement of the copyright holder. This article will exam whether this explanation is in line with the purpose to protect distribution right. Furthermore, in view of the different legislation of the exhaustion of Copyright in Taiwan and Germany, this article attempts to pursue the meaning and purpose of exhaustion doctrine and makes some suggestions for the legislation and application of exhaustion doctrine.

Keywords: Exhaustion Doctrine, Rental Right, Distribution Right,
Ownership of a Copy, First Sale Doctrine

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