

## Abstract

### Criticism about the expansion of the ex officio offense under the Korean Copyright Act

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According to the KORUS FTA, Korea is obligated to allow its authorities to initiate legal action with respect to the offenses without the need for a formal complaint by a private party or right holder. Korea amended the Copyright Act to implement the KORUS FTA in December, 2011. It is desirable for the prosecution not to rely on the accusation of the victim when copyright industries are harmed, or when copyright infringement is systematic or large-scale. Thus it is reasonable to amend the Copyright Act that allows the prosecution to initiate legal action ex officio against the infringer. However the element of ex officio offense of copyright, profit making, is not consistent with the purpose of the amendment. 'Profit making' refers to the 'intention to obtain economic benefits', so that they are not directly related to systematic or widespread violations of copyright. 'Profit making' is recognized in most cases, resulting in too severe criminal punishment against copyright infringement. As a result, the paradigm of criminal sanctions under the Copyright Act has changed.

Keywords : Copyright law, Ex officio offense, Profit making, KORUS FTA, Formal complaint, Legal action, Criminal procedure