

**Abstract**

**A Study on Copyright Limitations and Exceptions in Korean Copyright Act**

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It will be much more appropriate and productive to discuss the limitations and exceptions to copyright by focusing on only property right of copyright. Korea had had various individual provisions system for copyright limitations and exceptions until, in parallel with the above system, she recently adopted the US-style comprehensive fair use provision system. The legal systems for copyright limitations and exceptions in the world would be classified as three different types; various individual provisions system in Germany & Japan, a comprehensive fair use provision system in US, and so-called fair dealing provision system in UK. It is strongly suggested that the intrinsic conflict between property right of copyright and moral rights in Korea should be solved by broad interpretation of the statutory limitations and exceptions to moral rights in favor of the property right.

The main reason why the limitations and exceptions to copyright are much more complicated than those to patent or trademark is that nature of copyright is actually much more close to intangible asset separated and even isolated from tangible goods in which the right is embodied. Therefore, even an ordinary person who is not the competitor or at least the entrepreneur with industrial manufacturing equipment could easily infringe copyright by reproduction and etc. Thus the need for balance between the protection of exclusive right and the other side of the coin, the shield of fair use for the general public, has been always a realistic issue, not idealistic one that would be in patent or trademark.

The most cases by Korean courts in field of copyright limitations and exceptions are about the Article 28 in the Korean Copyright Act which has

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been intentionally interpreted as Korean comprehensive fair use provision in some dominant cases. Meanwhile, the Enforcement Decree delegated by paragraph 2 of Article 29 should be amended for correcting the legislative error which was made by including the government and etc., absolutely non-profit organizations, that should be placed under paragraph 1 of the same article, as a result of overlooking the difference between legal logics in copyright law of Japan and Korea.

### **Keywords**

Copyright limitations and exceptions, Fair use, Limitations and exceptions to property right of copyright, Limitations and exceptions to moral rights, Copyright exhaustion, Tangible goods and intangible right, Quotations from works made public, Public performance for non-profit purposes, Article 29 in Korean Copyright Act, Reproduction for private use