

**Abstract**

**Criminal Legal Review on Profit-Making Purpose and Habituality on Article 140 of the Copyright Act**

Park, Sung-Min\*

Article 140 of the Copyright Act stipulates any behavior on copyright infringement for Profit-making Purpose or under habituality as the offense indictable without victim's complaint. As such, in case of the Copyright Act, the composition requirement concept comprising profit-making purpose and habituality functions as the element to confirm eligibility of offense subject to complaint. Korean legal precedents deny the function of composition requirement by profit-making purpose and habituality on Article 140 of the Copyright Act. This thesis is initiated by the question that whether profit-making purpose and habituality on the Copyright Act can be interpreted differently from profit-making purpose and habituality on the Criminal Law. It is confirmed herein that Profit-making Purpose under the Copyright Act are more diversified in concept than under the Criminal Law, but habituality as marker of liability is not differentiated in persistence of behaviors.

Even though the Copyright Act and Criminal Law is not differentiated in the concept of habituality, Korean legal precedents affirms comprehensive crime in case of normal habitual offenders under the premise of the existence of rules for additional punishment to repeated offender. But in case of crime of infringing author's property right, comprehensive crime is denied and the composition of substantial multiple offenses is affirmed, even if habituality is acknowledged. Also in relation to the joint penal provisions on article 141 of the Copyright Act, if habituality is acknowledged on any employee, then habituality is acknowledged on the legal entity as well. This conclusions are all conceived from the idea that profit-making purpose and habituality on article 140 function as not composition requirement but requirement for

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\* Associate professor, college of law, Gyeongsang National University.

indictment. In this regard, this thesis firstly verified whether Profit-making Purpose and habituality are composition or the element to determine requirement for indictment. Firstly, from the functional perspective due to vagueness of habituality concept, theory of interpretation on joint penal provisions, and theory of the benefit and protection of the law on habitual crime of infringing author's property right, the composition requirement properties of habituality is affirmed. Furthermore, this thesis, criticizing the legal precedents in constituting multiple offenses on habitual crime of infringing author's property right, presented the standard for counting crimes on crime of infringing author's property right.

### **Keywords**

Criminal Law, Copyright Act, Profit-Making Purpose, Habituality, Copyright Infringement, Offense Subject to Complaint, Joint Penal Provisions, Comprehensive Crime