

ABSTRACTS

Youtube is a case which shows the people in this planet that digitalization becomes a key word day by day and months by months. At the time when the Digital Millennium Copyright Act was enacted, there was a big debate over whether the traditional copyright act and its regime based upon that could be a solution to the problems coming after the millennium. Napster was the first very successful business model using Internet and digital music contents. RIAA and other contents holders contended their copyright on one side. On the other side of the war front, the proponents for freedom of speech and expression based upon the US Constitution Article 1 have argued against the copyright holders and put their emphasis on the protection of public domain and facilitation of new expressions based upon the incumbent writings, musics and other types of copyright subject matter. Sony case has been called as a Magna Carta for the protection of new device manufacturers. As a matter of course, Sony case was relied upon by the attorneys arguing for the internet service providers, but it was distinguished by the Grokster Court.

YouTube is on the same line. Fair use in the US Copyright Act §107 becomes an extremely important issue. Fair use doctrine has been developed by US Supreme Court and other lower courts into a Four Prong Test. For the purpose of balancing the protection of public domain and copyright being supported by a number of big companies nowadays such as big software companies, big film companies and big music companies, fair use doctrine has been and will be a much more effective tool harmonizing the traditional cultural model and business model in the context of the copyright act at the same time. This fusion will make the fair use doctrine somewhat more generous to the content users by alleviating some degree of commercial uses. More detail has to be discussed in balancing the social values in our society.

Keywords : Fair Use Doctrine, Digital Millennium Copyright Act, YouTube, US Copyright Act §107,
Four Prong Test, Grokster Inducement Test, Sony Case