

ABSTRACTS

The recent legal debate concerning the Internet Multimedia Broadcasting Service Act dealing with IPTV had been about the issues in not copyright but the administrative law area. However, it is urgently needed to discuss the derivative liability rule of IPTV service provider, to cope with the users' copyright infringements which will be more often owing to the nature of IPTV based on internet technology.

Unlike the webcasting, the real-time broadcasting portion in IPTV service comes under not so-called the digital sound transmission but the broadcasting activity of the present Korean Copyright Act. And the Video on Demand portion in IPTV service is subject to the interactive transmission provision of the Act. Therefore, the appropriate provisions in the Korean Copyright Act should be applied to each portion.

If there will be the IPTV users' copyright infringement through the function of so-called Internet Search Portal or Internet Personal Broadcasting, the Joint Tort-feasors rule will be the basis for IPTV service provider's responsibility in the case. This is same as in the previous cases related to various internet service providers.

Even though the IPTV service provider's legal risk of keeping a PVR depository on the central server would be greater than the risk of keeping it in the set-top box, the user's activity in both case will probably be recognized as the exception of the reproduction for private use under the Korean Copyright Act. While there would be no infringement from the incorporation of the Dvix player function into the IPTV service, which makes the contents from the other digital devices such as PC available to IPTV, the adoption of so-called the open IPTV structure could be one of grounds for legal responsibility of IPTV.

Finally, the Korean Copyright Act should be amended to make the OSP liability limitation provision applied to the broadcasting activity by IPTV service provider, though the reasonable interpretation of the provision will be that the provision includes only the interactive transmission activity, not the broadcasting activity.

Keyword : internet multimedia broadcasting, IPTV, PVR, webcasting, internet broadcasting, secondary liability