

Abstract

**The Liability of Technology on Copyright Infringement
- Focused on Comparing the US Law -**

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Today, many people have claimed the reform of copyright due to the its out-dated feature, and the liability of technology is in the middle of the change. The development of technology has numerous implications for the copyright. On the one hand, it has users enjoy copyrighted material conveniently, but on the other hand, it makes it more easier to infringe copyright. Copyright owners have recognized that the technology has brought about the copyright infringement, and this has resulted in assuming the liability to the technology. In the early 1990s, copyright holders used secondary liability for holding the technology responsible. However, recently, they changed their stand to the direct liability of the technology.

The problem in judging the liability of the technology is the expansive scope of secondary liability and the burdensome of the technology by direct liability. In order to decide the appropriate liability of the technology, many things should be considered. First of all, the damage of copyright holders is not caused only by the technology. In addition, since the technology has brought many benefits to our society, they should be compared with the disadvantages of the technology. Moreover, the features of the technology has to be examined in various ways. In particular, if secondary liability is based on fault-based liability, it is helpful to make a balance between conflict interests. And, the direct liability should be judged by the volitional conduct doctrine to find the real infringer who is responsible for the infringement. In sum, direct liability of the technology should not be imposed if the users intervene the infringement. If it is difficult to find who is responsible for the infringement, volitional conduct doctrine can be the way to decide it. Thus, the principle of the liability of the technology must be the secondary liability, and whether the liability should be imposed depends on the culpability of the technology and the comparison of benefit and cost of the technology. This

way is the most efficient way to make a balance among the development of technology, the public interests, and the copyright holders' interests. This is very necessary in reforming copyright for the future.

Keywords

liability of technology, secondary liability, direct liability, fault-based liability, volitional conduct, safe harbor, disruptive dual-use technology

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