

Abstract

**Proposal to Improve Korea's Graduated Response System by
Newly Established Copyright Protection Commission**

Lee, Dae-Hee*

Under the Korea's Copyright Act, the Minister of MCST may order ISPs to delete illegal files of work on its network, to warn infringers of copyright infringement, to suspend the infringer's account up to six months, and to shut down all or parts of the bulletin board up to six months, parts of which may be called the graduated response system. The Korea Copyright Commission may also recommend ISPs to delete, to warn, and to suspend the account. Korea's graduated response system was legislated in 2009, and intended to target the webstorage system and P2P file sharing. The amendment of the Act in 2016 newly establishes the Korea Copyright Protection Commission, and the Copyright Deliberation Committee in it. The Commission and the Committee will be involved in the implementation of the graduated response system on behalf of the Korea Copyright Commission.

While the graduated response system has helped to deter copyright infringement since the first implementation in 2009, there are some defects impeding its effective and efficient implementation. This paper proposes how to improve the Korea's graduated response system. It proposes to streamline the order and the recommendation, to fix the account suspension period for six months, to ask for copyright owners to be deeply involved in the implementation, and to revitalize the shutting down of bulletin boards. And it recommend that the Commission and the Committee implement and revitalize the Korea's graduated response system.

* Professor of Law, Korea University School of Law

Keywords

copyright, graduated response system, infringement, online service provider(OSP), Korea Copyright Protection Commission, internet access, three-strikes out, account suspension, repeat infringer

참고문헌

- Annemarie Bridy, Graduated Response and the Turn to Private Ordering in Online Copyright Enforcement, 89 GA. L. REV. 81 (2010)
- Brett Danaher, Michael D. Smith, Rahul Telang, and Siwen Chen, The Effect of Graduated Response Anti-Piracy Laws on Music Sales: Evidence from an Event Study in France, 62 J. INDUS. ECON. 541 (2014)
- Center for Copyright Information Copyright Alert System Memorandum of Understanding 2 (2011)
- Center for Copyright Information, THE COPYRIGHT ALERT SYSTEM: PHASE ONE AND BEYOND (May 28, 2014)
- IFPI, Update on Graduate Response/ End-user notification programs (Jan. 2016)
- Katie Siuta O'Shea, Rebranding Digital Music Theft and the Graduated Response Model in the United States, 30-JUN ENT. & SPORTS LAW. 11 (2013)
- Peter K. Yu, The Graduated Response, 62 FL. L. REV. 1373 (2010)
- Rebecca Giblin, Evaluating Graduated Response, 37 COLUM. J. L. & ARTS 147 (2014)
- Susy Frankel & Daniel Gervais ed., THE EVOLUTION AND EQUILIBRIUM OF COPYRIGHT IN THE DIGITAL AGE 92 (2014)