

Abstract

Liability for Copyright Infringement of News Aggregator

- Focusing on the Case of Associated Press v. Meltwater -

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News aggregator provides users with the headline and lede of publishers' news articles, and it make them visit the publisher's sites if they want to read more specific news articles. The news aggregator brings many benefits to the publishers by helping the distribution of the articles and raising the traffic. On the other hand, however, it causes the loss of profit on advertising and licensing. The conflict of interests have the publishers file a suit against the news aggregator in the end. A court in the US agreed with the publishers, and thus the business model of news aggregator was limited.

However, this holding is not appropriate because it leaned copyright protection and thus is not consistent with the principle and the purpose of copyright law. First of all, the holding expanded the scope of the creativity too much by easily approving the creativity of factual and short headline or lede. Although the defendant utilized the headline and lede without transforming, the use had the additional purpose, did not supersede the market, rather brought many benefits that increased the exposure of the articles. Thus, the use of the defendant should be not illegal under the fair use doctrine. Moreover, the court rejected the implied license defense by maintaining the opt-in system for copyright protection, which is not suitable for the tide and technology. After all, the court failed to balance between copyright protection and innovation promotion which creates the innovative business model.

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Keywords

News Aggregator, News Copyright, Creativity, Hot News Doctrine, Fair Use, Implied License.

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판례

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