

Abstract

**Study on Regulation of the Online Service Providers
of a Special Type and Effectiveness of the Copyright
Act, article 104**

- Focusing on how to secure the objectivity of fine
levy standards -

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In 2006, the Copyright Act article 104 was legislated to respond to the claim that online service providers of special type have some responsibilities. For example, they should take necessary measures when a copyright holder makes a certain request, or they will be imposed a fine regardless of infringement.

This article has caused regal controversy since the legislation; however, the fine based on the unblocked rate was forced, and concerned OSPs made a huge resistance. As the result, the penalty for negligence was dropped through a series of administrative litigations such as the 'H Lab' case and so on. Since then, a single case of fine levy has not been imposed, and the relevant article became de facto nullified.

This paper suggests the abolishment of fine levy practice based on the unblocked rate and the embodiment of necessary measures considering Telecommunications Business Act, article 22(Reporting of Value-Added Telecommunications Business), and also examines the trend of the EU DSM Directive, and requests a total reconsideration on the article 104 including the range of OSPs of a special type.

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Keywords

Online Service Providers of Special Type, Webhard Registration System, fine, unblocked rate, Copyright Act article 104, EU DSM Directive