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Why Internet Services Which Provide Access to Copyright Infringing Works Should Not Be Immune to Liability 464

Four references for a preliminary ruling concerning questions about whether certain internet service providers play an active or passive role when providing access to copyright-protected works without the authorisation of the relevant right holders are currently pending before the Court of Justice of the European Union (CJEU). As we eagerly await the eventual rulings of the CJEU, we should bear in mind that the Court has expressed an interest in the Copyright in the Digital Single Market Directive of 17 April 2019 (the DSM Copyright Directive) which is currently being transposed into the national laws of Member States.

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A Justificatory Pluralist Toolbox: Constructing a Modern Approach to Justifying Copyright Law 469

Developments in digital technology and the way that copyright content is being consumed has forced copyright law to evolve. However, the justifications underlying copyright frameworks have remained rooted in the traditional ideologies of Lockean Labour Theory, Hegelian Personality Theory and Utilitarianism. These singular, traditional approaches to justifying copyright law are no longer suitable especially since the debate about intellectual property as a justified form of property is now moot. Consequently, this article proposes that a pluralist toolbox of justifications be adopted to account for the wide range of competing considerations that are present in modern copyright frameworks.

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Intellectual Property, "One Municipality, One Innovation Model" and the Developing World 484

The "One Village, One Product (OVOP)" concept, originated in Oita, Japan, in 1979, and served as a reference for countries in the developing world. The main idea behind OVOP is more or less to empower local villages, towns, communes or districts to concentrate on one product that they promote and market. The implementation of this model in the developing world has raised diverse challenges. Inspired by the OVOP/OTOP, the author has expanded the scope of coverage by renaming the concept "One Municipality, One Innovation (OMOI) Model". The aim is to set up a platform/entity at the municipality level, as defined by each country, which encourages locals to produce innovative projects in certain areas deemed important in both non-technological and technological sectors and in accordance with the needs and priorities of the municipality which should be implemented within the initial period of three years and subject to an extension of two years, where applicable. The involvement of the informal economies (sector) should be encouraged.

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The evolving landscape of digitalisation of copyrighted works has demonstrated the limits of traditional copyright law and calls for a modern legal framework. The rise of online infringement, the risks of unbalanced weight between the rights of copyright holders and the protection of public interest, including free access to digitalised works, and the consistent advocacy of scholars to address these issues, seem to have resonated. In fact, from North America to Europe and to the Pacific, new copyright policies have been drafted and implemented in recent years. This article takes a critical look at the new European Union's Directive on Copyright in the digital single market from the angle of its benefits for both copyright holders and the public.

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In the decision discussed in this case comment (*Tom Kabinet* (C-263/18), the CJEU pulled the plug on second-hand markets for copyright-protected intangible works. From the decision it follows that the UsedSoft-doctrine, according to which the right to distribution exhausts after the first online sale of a computer program, only applies to other tangible (digital) works. The spreading of intangible works falls within the scope of the exclusive right to communicate to the public, to which the exemption of exhaustion does not apply. This marks a new era for the application of the principle of exhaustion in an online context.

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The Court of Justice of the European Union has ruled that the word sign "Fack ju Göhte"—the title of a successful 2013 German comedy, and a phonetic transcription into German of the English expression "Fuck you, Goethe"—does not infringe the "accepted principles of morality" pursuant to art.7(1)(f) of Regulation 207/2009, because the EUIPO and the General Court evaluated the mark abstractly, and in their assessment failed to consider other contextual factors necessary to discern that the relevant public did not perceive such a title as morally unacceptable.

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In a recent case involving an e-commerce giant and three retailers, the High Court of Delhi, in a division bench judgment, held that an intermediary, in the absence of a court order, need not proactively take down any illegal content from its platform. Further, application of the safe harbour framework as envisaged under s.79 of the Information Technology Act would not depend on the active or passive nature of the intermediaries. This comment analyses the judgment and its approach to safe harbour.

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