

Policy Implications of the ISP Safe Harbor in Copyright Law

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Abstract

Taiwan Copyright Law was amended in 2009, transplanting the safe harbor regime for Internet service providers (ISPs) primarily from the United States Copyright Law. The legislative intent of this amendment is to benefit the Internet industry by reducing ISPs' legal risk caused by users' infringing activities. This Article first examines the safe harbor rules in Taiwan Copyright Law from a comparative law perspective. Then it explores ISPs' civil and criminal liabilities for users' infringing activities and their relationship with current safe harbor rules. By illustrating the characteristics of the ISP safe harbor legislation, this Article provides a number of policy implications of digital copyright law and Internet law. Moreover, this Article provides several legislative proposals on ISP safe harbor rules to balance different interests of copyright owners, ISPs, and their users.

Keywords: Internet service provider (ISP), safe harbor, notice-and-takedown, three-strike provision, fair use, private enforcement of law

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