

Knowledge Based Liability for ISPs' Copyright and Trademark Infringement in the EU E-Commerce Directive: Two Steps Behind the Philosophy of Computing Mind

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Abstract : The subject matter of this article is the efficiency of current knowledge standard to afford the legal integration regarding criteria and approaches to ISP knowledge standards, to shield ISP and copyright, trademark and other parties' rights in the online information society. The EU recognizes the knowledge-based liability for intermediaries in the European Directive on Electronic Commerce, but the implication of all parties' responsibility for combating infringement has been immolated by dominating attention on liability due to the lack of the appropriate legal mechanism to devote each party responsibility. Moreover, there is legal challenge on the applicability of knowledge-based liability on hosting services and information location tools service. The aim of this contribution is to discuss the advantages and disadvantages of ECD knowledge standard through case law with a special emphasis on duty of prevention and constructive knowledge role on internet service providers (ISP s') to achieve fair balance between all parties rights.

Keywords : internet service providers, liability, copyright infringement, hosting, caching, mere conduit service, notice and takedown, E-commerce Directive

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