

# **Use of Work of Art in the Internet Environment and Liability Relationships**

## **Abstract**

This thesis deals with the use of work of art in the Internet Environment and liability relationships arising on the Internet.

The thesis examines the essential concepts that accompany the use of works on the Internet, their historical development and context. In particular, the author's exclusive right of communication to the public, the violation of which gives rise to a copyright tort, or the definition of an Internet service provider (ISP) under various EU legal regimes.

The thesis also offers a summary of the most important aspects of the most recent applicable EU digital legislation (DSM and DSA), as well as a reflection on lessons learned from the enforcement of previous digital legislation.

The thesis defines the conditions for limiting the liability of ISPs, the so-called safe harbor, and the consequences of leaving the safe harbor. This thesis offers a comparison between the American and European concepts of safe harbor. The thesis describes the construction of the copyright tort that may arise after the loss of safe harbor protection, assuming that the ISP is directly or secondarily liable. The thesis offers a brief summary of unfair competition and criminal liability as well.

This thesis pays particular attention to the general content monitoring obligation, which the thesis also examines in depth from a historical context and assesses its compatibility with European law and the potential appropriateness of a general monitoring obligation in light of recent legislation and case law.

The thesis offers a comparison of the American and European approaches to copyright restrictions and discusses various rationales for the existence of such restrictions. The thesis also discusses the conditions and application of some important copyright exceptions that have their indispensable place on the Internet. Such as quotation, caricature, parody and most recently pastiche. This thesis evaluates the advantages and disadvantages of the American fair use and the European closed list of exceptions and offers de lege ferenda considerations to improve the European system.

Finally, the paper offers appropriate defences for authors against copyright infringers. The defences consist of various possible claims (injunction, damages and lost profits claim, information claim), but also discusses the recent case law of the general courts and analyses their decisions.

**Keywords: internet service providers, liability, safe harbor**