

RESUMÉ

Internet and Copyright. Extent of Liability of the Service Providers within the Information Society.

Graduation theses deal with the extent of liability of the Internet Service Providers in the context of the copyright. The extent of liability was assessed within the context of the respective international documents, European Union's sources of law as well as within the Czech legal environment. The most important resources at the international level are so called "Internet Treaties" under the World Intellectual Property Organization (WIPO) among them the WIPO Copyright Treaty is the most important one. There have been worked a studies out which are not legally bounded but which have great importance because of the direction and initiative which they gave to the contracting parties of WIPO.

The Graduation theses target mainly US Digital Millennium Copyright Act, (European) Directive 2000/31/EC (Directive on electronic commerce), and the Czech Act N. 480/2004 Coll., (Certain Information Society Services Act). The basic rules which result from these legal sources are almost the same. The Internet Access Providers and the Internet Network Providers both so called "mere conduit" are basically exempt from the liability for copyright infringement. This applies under the conditions that the provider does not initiate the transmission or does not select the receiver or does not modify the information contained in the transmission. Therefore if the transmission works in an automatic way without any interaction of the provider, the provider is not responsible for the possible infringement of the copyright. The Hosting Providers are excluded from the liability under the condition of absent knowledge or awareness of the possible infringement. Additionally, upon acquiring knowledge or awareness, hosting providers are not liable, if they immediately disable or remove access to the infringing content.

The main difference between the European approach and the US treatment is in the scope of application. Whereas the European legislature has opted the horizontal approach which applies to all respective legal branches, the DMCA treats the liability of the Internet Service Providers within the framework of the copyright law. Other

difference reposes upon procedure of disabling or removing access to the information. Whereas the procedure is clearly stated inside the DMCA, the E-Commerce Directive leaves room for the discretion of the member states which can decide independently if they will include the procedure to the transposition measures at the national level. In the case of the Czech Act on Certain Information Society Services which was issued as the Czech transposition measure of the above mentioned Directive, the legislator has not included the “notice and take down” procedure and so has left providers a certain latitude in dealing with the notification of possible infringement of copyright. This involves both advantageous and disadvantageous. It provides more freedom and it is not so bounded and strict comparing with the DMCA. On the other hand it can bring a legal uncertainty in the meaning of the procedure which should provider use under the notification.

The main point of the protection of the copyright within the meaning of this thesis lies between the authors or their representatives and the Internet Service Providers which shall cooperate to protect copyright as much as possible. Simultaneously it is necessary to have a consideration for a principle of proportionality in compliance with the respective judgement of the European Court of Justice.

Klíčová slova v českém jazyce: autorské právo, poskytovatel služby, odpovědnost

Klíčová slova v anglickém jazyce: copyright, service provider, liability