

Preface

The establishment of copyright protection systems aims to achieve two important purposes: to stimulate the incentive for creation by granting authors a series of exclusive rights on the one hand and promote the progress of culture and public welfare by establishing a series of limitations on these exclusive rights so that the flow of information and dissemination of knowledge will not be hindered on the other hand.

There is always a close relationship between technology development and copyright law. The emergence of personal computers and the Internet has brought about a distinct wave of technological innovation that has reshaped copyright laws by empowering anyone with a connection to flawless, inexpensive, and instantaneous reproduction and distribution of works of authorship. Such technological advancement changes the interests of copyright owners and public users. Users are exposed to more opportunities brought about by digital network technology to obtain access and exploit copyrightable works. If copyright laws do not expand their protected subject matters and categories of exclusive rights, authors cannot be adequately compensated under the digital network environment. Copyright laws can no longer function as an incentive for creation if there is a lack of revision and appropriate expansion. Hence, copyright laws need to extend protection to new subject matters, such as computer programs and databases; grant right holders new kinds of rights, such as right of rental and right to network dissemination of information; establish indirect infringing liability for Internet service providers; and expand protection to technological measures.

However, copyright expansion should not be unlimited and should cease when appropriate access to various works and future creations is at risk. Expansion of copyright protection is only justified when the access and use of works by the public threaten the incentive of authors to create and reap economic rewards. Overexpansion of copyright protection would again disrupt the balance if access to works is narrowly restricted. Overprotection of copyrights will not only obstruct access to original works but will also inhibit future creations based on the original works.

Based on comparative research on international and regional conventions as well as laws, regulations, policies, and cases among different jurisdictions, this book intends to suggest proposals to recover the balance of interests among copyright holders, technological intermediaries, and public users in terms of accessing, distributing, and exploiting copyright works. Four specific issues are discussed in the book: the anti-circumvention rules for protection of technological measures, indirect infringing liability for Internet service providers and safe harbor regulations, copyright limitations and exceptions especially under the digital network environment, and digital commons projects which promote distribution and adaptation of copyright works placed under voluntary licensing schemes. The analysis of these issues and corresponding proposals for reform are not only to reverse the worldwide copyright expansion trend so as to make copyright laws appropriately respond to digital network challenges and the emerging remix culture in general but also to induce China to rethink and amend her copyright system so as to restore a robust public domain where existing information and data can be used to produce future intellectual assets.

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