

ABSTRACT

‘Copyright law and Technology: Challenging the Concept of Balance’

In the last decade, copyright law has been under continuous scrutiny which challenges the modes and approaches as to how to deal with the impact of technological advancement on its traditionally established principles. Moreover, debates currently surrounding the conundrum between the copyright and technology are persistently antagonistically situated – between the interests of authors versus those of the society; between producers and consumers; between private and public domain. In addition, various copyright justifications under different national and international legal frameworks are contested with their ability of striking the right balance. Hence, the concept of ‘balance’ has become a fundamental notion that various legal policies and commentaries are not only striving for to achieve, but also regard it as an orienting principle for copyright law’s amelioration.

However, it could be discerned that the concept of ‘balance’ or the act of striking the right balance does not provide any substantial amelioration in that respect, but only wideness the gap between the various positions concerning this subject matter. Although in its essence the law always deals with the act of ‘balancing abstractness’, it is the balance of the opposing forces that should be evaluated. Therefore, this paper will critically address the qualitative value of the concept of balance and its performance of copyright promotion and protection. It will argue that the concept itself only underlines the conflicting environment of copyright and technology and that it should be abandoned as an orienting principle for the copyright discourse and policy enforcement.

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