

Updates on Draft Amendment to the Copyright Act of Thailand

On 14 August 2018, the Thailand's Department of Intellectual Property ("DIP") published a summary of the results from the public hearing and public consultation on the draft bill to amend the Copyright Act B.E. 2537 (the "Bill") before the DIP revises the Bill and proposes it to the Cabinet.

The Bill aims to address the inefficient measures against online infringement against copyrights under the current copyright law and to adopt the "Notice-and-Takedown" scheme.

Three main interested groups gave comments and consultation to the DIP on the Bill. They were the copyright owners, the service providers and the legal consultants.

The copyright owners suggested that, for an internet service provider (ISP) to be protected under the "safe harbor" principle and exempted from copyright infringement liability, it must not know or should have known that there is an infringing activity in its service system and it must not be in control of the infringing computer data related to its services provided. The copyright owners also proposed the "Notice-and-Stay-Down" principle be adopted for certain types of ISP. The term "Notice-and-Stay-Down" refers to the concept of additionally requiring the ISP, after it has received a request to take down a certain copyrighted work, to also prevent that work from becoming available on the services system again in the future.

The ISP group supported of the "Notice-and-Takedown" scheme only. The DIP responded that the "Notice-and-Stay-Down" may not be a proper scheme to be adopted by Thailand for now as it may cause too much a burden and costs on the ISP.

The copyright owners also proposed that their agents or authorized persons should also have powers to send a notice to the ISP to remove an alleged infringing copyright work reference source or its connecting or accessing point from their computer systems or to cease providing access to such infringing computer data.

The legal consultants suggested that the Bill should set out different liability exemptions for different types of ISP as there are various types of them and they should not be under the same terms and conditions.

The DIP is now considering all the comments received and will revise the Bill before proposing it to the Cabinet for their approval in principle. We will update readers on its development in future issues of our newsletters.



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