‘PIRACY. IT’S A CRIME.’ - THE CRIMINALISATION PROCESS OF DIGITAL COPYRIGHT INFRINGEMENT

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Abstract

This paper seeks to analyse the trend in copyright protection legislation in the EU. Taking into account an increasingly evident ‘shift’ in the discourse of policy-makers regarding online copyright infringement, this paper will evaluate the development of increasingly restrictive and prohibitive digital copyright laws, demonstrating how copyright infringement, an area traditionally associated with civil penalties, is subject to a creeping discourse of criminal liability and security rhetoric. Increasingly, digital piracy is being associated with more serious issues such as organised crime and terrorism, as well as being used interchangeably with counterfeiting, leading to confusion and misinformation in the piracy debate.

Whereas research in this field has traditionally focused on legal developments as they occur and ex-post assessments of the legislation in question, this paper seeks to establish the existence of a trend, taking into account why and how this trend has developed. In order to achieve this aim, this paper will not only consider key legal documents and cases, but will also look at policy-forming documents such as Commission Reports, as well as press releases of non-governmental actors in the field of copyright such as music industry representatives. In particular, these documents will be analysed in order to determine how copyright infringement is phrased, showing the change in the perception of the problem being one of internal market regulation into one of crime and security. Finally, these findings will be applied to recent developments at the EU level such as the European Commission proposal for a Directive for Criminal Enforcement of Intellectual Property Rights, in order to demonstrate how these anti-piracy measures have grave ramifications for the Internet and Internet users.

Author’s Bio

Benjamin Farrand is currently concluding his thesis at the European University Institute, Florence, on the harmonisation of EU digital copyright law. His main research interests include intellectual property and competition law. He has previously obtained his undergraduate and masters degrees from the University of Sheffield in the United Kingdom.