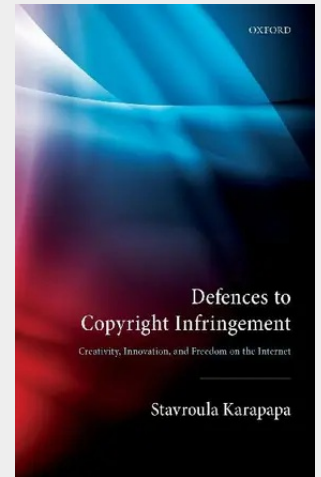


Defences to Copyright Infringement

Defences to copyright infringement have gained increased significance over the past twenty years. The fourth industrial revolution emerged with the development of innovative copy-reliant services and business models, which have transformed the way in which copyright works can be used and re-used, spanning from digital learning methods, to mass digitization initiatives, media monitoring services, image transformation tools or content-mining technologies. The lawfulness and legitimacy of such innovative services and business methods, that arguably have the potential to enhance public welfare, is dubious and challenges copyright law. EU copyright contains diverse, yet specifically enumerated, narrowly drafted, and strictly interpreted defensive rules, often taking the form of the so-called exceptions and limitations to copyright. In addition, defendants may also deny liability by attacking one or more of the elements of infringement, by bringing forward for instance claims negating copyright subsistence or the scope of copyright protection. Because the fourth industrial revolution comes with the promise of innovation and business growth, which are stated objectives of EU copyright, it invites an examination of defensive rules as an organic whole. This book adopts such a holistic approach in its exploration of the limits of permissibility under EU copyright, including not only legislatively mentioned exceptions and limitations but also doctrinal principles and external to copyright rules with a view to unveil possible gaps and overlaps, offering a novel classification of defensive rules, and evaluating the adaptability of the law towards technological change. Discussing recent legislative developments, such as the provisions of the Digital Single Market Directive, and case law from the Court of Justice, and bringing insights from an extensive set of national laws and cases, this book tells the story of copyright from the perspective of copyright defences, offering both positivist and normative insights into law and doctrine and arguing towards a principle-based understanding of the scope of defences that could inform future law and policy making.

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