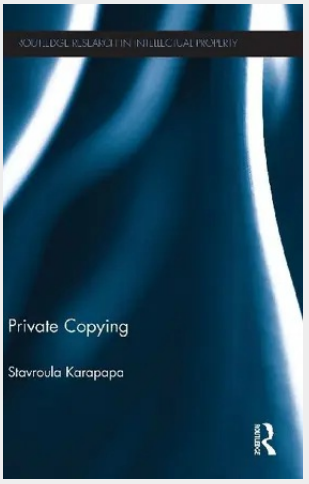
Karapapa

Private Copying



This book offers an original analysis of private copying and determines its actual scope as an area of end-user freedom. The basis of this examination is Article 5(2)(b) of the Copyright Directive. Despite the fact that copying for private and non-commercial use is permitted by virtue of this article and the national laws that implemented it, there is no mandate that this privilege should not be technologically or contractually restricted. Because the legal nature of private copying is not settled, users may consider that they have a 'right' to private copying, whereas rightholders are in position to prohibit the exercise of this 'right'. With digital technology and the internet, this tension has become prominent: the conceptual contours of permissible private copying, namely the private and non-commercial character of the use, do not translate well, and tend to be less clear in the digital context. With the permissible limits of private copying being contested and without clarity as to the legal nature of the private coping limitation, the scope of user freedom is being challenged. Private use, however, has always remained free in copyright law. Not only is it synonymous with user autonomy via the exhaustion doctrine, but it also finds protection under privacy considerations which come into play at the stage of copyright enforcement. The author of this book argues that the rationale for a private copying limitation remains unaltered in the digital world and maintains there is nothing to prevent national judges from interpreting the legal nature of private copying as a 'sacred' privilege that can be enforced against possible restrictions. Private Copying will be of particular interest to academics, students and practitioners of intellectual property law.

The scope and legitimacy of private copying is one of the most highly contested issues in digital copyright. This book offers an original analysis of private copying and determines the actual scope of private copying as an area of end-user freedom in the digital world. In particular, it examines the permissibility of digital private copying with a view to clarify the legal uncertainty as to its scope.

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