Chapter X
Digital Rights Management and E-Commerce Transactions: Online Rights Clearance

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ABSTRACT

This chapter investigates intellectual property rights clearance of as part of e-commerce. Rights clearance is viewed as another online transaction that introduces certain technological and organizational challenges. An overview of the current intellectual property rights legislation is used to describe the setting in which business models and digital rights management systems are called to perform safe and fair electronic trade of goods. The chapter focuses on the technological aspects of the arising issues and investigates the potentials of using advanced information technology solutions for facilitating online rights clearance. A case study that presents a working online rights clearance and protection system is used to validate the applicability of the proposed approaches.

INTRODUCTION

Rights clearance has always been an important issue in every transaction that involves copyrighted objects but even in other transactions such as land property acquisition. Typically the owner (seller) has to prove that he possesses the right to make the transaction and the buyer has to be sure of the
legitimacy of the transaction that he is going to be part of. The general perspective of this chapter is to address every aspect of rights clearance in e-commerce transactions mainly from the technical point of view. The major topics that will be addressed in the remaining of this chapter are the investigation of on-line rights clearance background in terms of broad definitions, discussions and contradicting views, the inquire of intellectual property rights as part of a Digital Rights Management system and with respect to a plausible business model, the analysis of the technical components involved in on-line rights clearance, along with the arising flow control and engineering issues as well as the presentation of an operative DRM system integrating on-line rights clearance practices.

BACKGROUND

“Rights clearance” is a term often used indiscriminately to describe a set of processes that are followed both in the physical and digital world. As a consequence, the “bad” use of this term and in general the terminology related to rights clearance is usually a source of many ambiguities and misconceptions that prevent readers from acquiring a common understanding on the issue. The goal of this section is to outline the related topics, address controversial issues and eventually formulate a clear basis that will help the reader gain an insightful view of the subject.

Intellectual Property Rights (IPR) and Current Legislation

Current legislation concerning intellectual property primarily aims at protecting artworks that exhibit a considerable level of creativeness and novelty, such as works originating from literature, theatre, music, art etc. Among the large corpora of law proceedings that concern intellectual properties, there is a considerable portion that attempt to address intellectual properties as formulated by digitizing and distributing content through computer networks. There is a very strong tradition that seeks to harmonize the activities of all European countries under a common, international action line, with the aim to tackle the problems generating from the misuse of intellectual properties. The need for common treatment of such issues is considered essential in the context of a European market, mainly due to differences in conception of intellectual property and the obstacles arising by the enforcement of domestic copyright restrictions. If we consider the pace by which digital information is being generated and the practices that are often used for its distribution and sharing, it is evident that individual national legislations are inadequate to guarantee the interests of intellectual property owners, in the light of an emerging and without boundaries digital trade.

The purpose of national legislation is to determine the amount of actions that are considered legitimate within the nation boundaries. However, the study of a national legislation should not be carried out independently from the international status quo. The international state of affairs is constituted by international conventions and directives that act normatively in the establishment of national laws. The most important international conventions are:

- Berne convention (supervised by World Intellectual Property Organization) [WIPO]
- The international convention regarding copyright (UCC)
- TRIP’s agreement (Trade Related Intellectual Property Rights) under the auspices of World Trade Organization