

Bills Committee on the Copyright (Amendment) Bill 2009

Definition of “Infringing Page”

Background

In section 1 of the new Schedule 1AA to the Copyright Ordinance (Cap.528), the term “infringing page” is defined as “*a side of a page* that embodies ... an infringing copy of any copyright work in a printed form that is contained in a magazine, periodical (other than a specified journal) or newspaper”.

2. We adopted the expression “*a side of a page*” in the proposed definition because the word “page” might refer to one side or both sides of a sheet of paper¹. To avoid any unnecessary ambiguity, we saw merit in clarifying our policy intent (that infringing page means *one side* of a page that contains infringing copy), thus putting the issue beyond doubt.

3. We were advised that the use of a “side” in relation to a “page” was grammatically correct. Such use (e.g. one side of a page, the other side of a page or both sides of a page) could be found in various literatures both locally and overseas.

Members’ views

4. Some Members questioned whether the choice of words “a side of a page” was correct. They remarked that it was unnecessary to elaborate on the word “page”, as it would naturally be interpreted as one side of a leaf/sheet of paper. Moreover, such an expression might cause confusion to the public, as it might be read as meaning the upper/lower/left/right etc. side of a page.

Administration’s Response

5. We consider it important to have a clear definition of the term “infringing page”, which in turn affects the application of the numeric limit in relation to magazines, periodicals (other than specified journals) and newspapers (i.e. 500 infringing pages within any period of 14 days).

¹ The dictionary meaning of the word “page” includes: (1) “Either side of a leaf of a book, manuscript, letter, etc. Also, a complete leaf of a book, etc.” (Shorter Oxford English Dictionary, Sixth edition); and (2) “one side or both sides of a sheet of paper in a book, newspaper, etc” (Longman Dictionary of Contemporary English, 1999).

6. That said, noting the views expressed by Members as summarised in paragraph 4 above, we have reviewed the proposed definition. On reflection, we believe that the way in which the term “infringing page” is used or referred to in other parts of the Bill should have already made it clear that, for the purpose of the Bill, each “infringing page” is to be counted on a single-sided basis. In particular -

- (a) in section 4(4)(a) of Schedule 1AA, it is provided that all images of infringing copies made or distributed in electronic form should be printed on paper of A4 size and “each side of such printout is taken to be one infringing page”. It demonstrates the policy intent that the term “infringing page” should be read on a single-sided basis; and
- (b) the word “page” is referred to as “頁面” throughout the Chinese version of the Bill. This lends support to the interpretation that the term “infringing page” should be read on a single-sided basis.

7. In the light of the above, we propose deleting the words “a side of” immediately preceding the words “a page” in the definition of “infringing page”. This amendment (which we will move at the committee stage) does not entail any policy change nor does it affect the overall structure of the Bill.

Commerce and Economic Development Bureau
Intellectual Property Department
Department of Justice
October 2009