

JUS5670 Electronic Commerce Law

Mid-term paper – Spring 2014

Please read carefully and answer the following:

X-Tend, a company based in a member state of the European Union (EU), runs an online social networking platform where every registered user acquires a personal space known as a “profile” which the user then can complete and which becomes available to all the other users registered on the platform. The main function of that platform is to build virtual communities through which all those who have a profile can communicate with each other and develop friendships. On their profile, the users can keep a diary, indicate their hobbies and interests and publish video clips. Nordic Studios, a large film company based in another EU member state, owns the copyright in several Scandinavian films, television series and musical scores. Nordic Studios claims that several of X-Tend’s social networking platform users are exchanging various musical and other audio-visual works of which Nordic Studios is the copyright holder. It asks X-Tend: (i) to block the profile of a certain John Zaphod who, it claims, has uploaded links to the TV series “Hitchhikers” of which Nordic Studios is the copyright holder; (ii) to prevent and generally block the use, including storage or exchange, of any of Nordic Studio’s copyrighted works by X-Tend’s social networking community.

Advise X-Tend on its position in light of the relevant provisions in the Electronic Commerce Directive (Directive 2000/31/EC) relating to intermediary liability.