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SECTION 512 OF TITLE 17

A REPORT OF THE REGISTER OF COPYRIGHTS

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“In enacting section 512, Congress sought to create a balance between two goals. One is providing important legal certainty for OSPs, so that the internet ecosystem can flourish without the threat of the potentially devastating economic impact of liability for copyright infringement as a result of their users’ activity. The other is protecting the legitimate interests of authors and other rightsholders against the threat of rampant, low-barrier online infringement. ...

In the twenty-plus years since section 512 went into effect, the question has often been asked whether the balance that Congress sought has been achieved, particularly in the light of the enormous changes that the internet has undergone. Indeed, that is the question that motivated the Study that led to the present Report. ...

Based upon its own analysis of the present effectiveness of section 512, the Office has concluded that Congress’ original intended balance has been tilted askew.”

Overview of Section 512

Section 512 contains limitations on liability—referred to as safe harbors— for four types of online service providers. The safe harbors shield qualifying online service providers from monetary liability for copyright infringement based on the actions of their users, in exchange for cooperating with copyright owners to expeditiously remove infringing content and meeting certain conditions.

The four types of online service providers and the applicable conditions to qualify for the safe harbors are:

