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# On Peers and Copyright: Why the EU Should Consider Collective Management of P2P



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## Preface

*“On Peers and Copyright: Why the E.U. should consider collective management of P2P”* corresponds to the dissertation submitted to the Munich Intellectual Property Center in satisfaction of the requirements for the degree of Master of laws in Intellectual Property (LL.M. IP) in September 2011. This dissertation is now published, as updated until January 2012, mostly in light of relevant legislation, case law and some bibliography coming out in the intervening period. As constantly happens in literature regarding copyright and technology, this writing will have likely become outdated before its publication. Nonetheless, given the nature of the text and this publication, we've decided to limit any amendments to a minimum, maintaining the original structure, contents and overall direction of the research.

This book analyzes the E.U.'s approach to P2P, a disruptive and economically significant digital age technology that highlights the tensions between the Internet and a territorial and fragmented copyright law. It aims at providing the necessary legal qualification and context to understand why the E.U. has thus far failed to achieve its deterrence goals and followed a path that represents a financial burden for both Member States and rights holders, while not being able to monetize a vast market, inadequately tapping the innovation and cultural development potential of this technology, damaging the reputation of the content industry and “criminalizing” users.

It is argued that a solution to this conundrum must be based on the use of copyright law and policy as tools for market organization and innovation growth, with respect for rights holders and users (sometimes) opposing interests and the existing legal framework. The best answer to mass online P2P uses seems to be that of collective rights management, as it offers an organized licensing and remuneration system compatible with the interests of stakeholders. This is especially true in the E.U., home to a developed and sophisticated market of CMOs, subject to numerous ECJ and Commission decisions, as well as varying E.U. institutional approaches, all pointing towards a preference for multi-territorial and pan-European licensing models covering mass online uses of copyright content. In this context, this book tests the compatibility of several non-voluntary and voluntary approaches to P2P with international treaties, the *acquis* or simply strategic policy considerations.

The concept of this book is to offer a modest contribution to the discussion of alternative and workable models, within the framework of copyright law, to address P2P uses in the E.U.

The author would like to thank Professor P. Bernt Hugenholtz for his supervision, comments and suggestions.

*Amsterdam, April 2012*

*João Pedro Quintais*

# Table of Contents

Acronyms and Abbreviations	9
I. Introduction	13
II. Uncovering the “P2P dilemma”: technical and economic background of P2P	16
A. Technical background: jurisprudence driven technology?	16
B. Economic background	18
III. Copyright, territoriality and P2P	26
A. Territoriality and harmonization	26
B. Legally relevant P2P acts and exclusive rights	30
C. Exceptions and limitations	35
IV. Collective management of copyright	40
A. Operation and types of collective management	40
1. General considerations	40
2. Voluntary collective licensing	42
3. Blanket licenses	43
4. Mandatory collective management	44
B. Mass online uses and multi-territorial licensing	46
V. Collective management of P2P: a viable alternative?	52
A. In general	52
B. Non voluntary approaches to P2P	53
1. Legal license	53
a) Without statutory remuneration or “digital abandon”	53
b) With statutory remuneration	55
2. Mandatory collective management	59
3. Extended collective licensing	62

C. Voluntary collective licensing	66
1. Basic proposal and features	66
2. Benefits	67
3. Compatibility	68
a) E.U. secondary legislation	68
b) Participation	71
c) Free riding	72
d) Logistics and implementation	73
e) Royalties	73
f) Cross-subsidization	74
g) Coexistence	74
h) “Remixes”	75
VI. Conclusions	77
Annex I: P2P “Generations”	81
Annex II: CMOs as Intermediaries	86
Annex III: CISAC Model for Cross-border Licensing	87
Annex IV: Mandatory Collective Management in the Rental Right Directive	88
Annex V: Santiago Agreement Model	89
Annex VI: IFPI Simulcasting Model	90
Annex VII: The Online Music Recommendation Model, CELAS and MyVideo	91
Annex VIII: ASCAP VCL Model	93
List of Works Cited	95