

Document details

< Back to results | 1 of 1

[Export](#)
[Download](#)
[Print](#)
[E-mail](#)
[Save to PDF](#)
[Add to List](#)
[More... >](#)

Journal of World Trade
Volume 52, Issue 3, 2018, Pages 461-477

Trans-pacific partnership agreement minus one and enhanced criminal penalty for online copyright piracy: Malaysia's options (Article)

Abdul Ghani Azmi, I.M.^a [✉](#), Lim, H.G.^b [✉](#), Tay, P.S.^c [✉](#), Sik, C.P.^c [✉](#)

^aCivil Law Department, Ahmad Ibrahim Kulliyah of Laws, International University, Malaysia

^bFaculty of Law, Universiti Teknologi MARA, Malaysia

^cFaculty of Law, University of Malaya, Malaysia

Abstract

[View references \(24\)](#)

The burgeoning of online piracy enables copyright materials to be routinely downloaded and exchanged for free, without any deliberate intention to infringe copyright. These acts were done for the purpose of sharing and attract no commercial value, and, hence, may not be considered as culpable criminal conduct because of the lack of intention. The Trans-Pacific Partnership Agreement (TPPA) introduces enhanced criminal provisions which are much harsher than the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) with a view to fight online copyright piracy. Even though the United States of America (US) have withdrawn from the Agreement, the other eleven countries are attempting to revive the Agreement, minus the US. The possibility of the Agreement being eventually implemented by the eleven-member countries is still real. This article examines two new criminal provisions introduced by the TPPA. The first is the criminalization of wilful copyright infringement even if carried out on a non-commercial basis. The second is the culpability of aiding and abetting of copyright offences. As these provisions are already in place in US law, reported judgments from the US on corresponding provisions would be examined. The article concludes with choices that Malaysia could consider in the event these two new obligations are implemented. © 2018 Kluwer Law International BV, The Netherlands.

Funding details

Funding number	Funding sponsor	Acronym	Funding opportunities
	Universiti Teknologi MARA	UiTM	
bernama/v8/bu/	Universiti Malaya	UM	

Funding text

This research did not receive any specific grant from funding agencies in the public, commercial or not for profit sectors. Professor, Civil Law Department, Ahmad Ibrahim Kulliyah of Laws, International University, Malaysia. Email: imadieha@iium.edu.my. *** Professor, Faculty of Law, Universiti Teknologi MARA. Email: hengegelim@yahoo.com. Assoc. Prof., Faculty of Law, University of Malaya. Email: tayps@um.edu.my. *****Lecturer, Faculty of Law, University of Malaya. Email: sikcp@um.edu.my. Malaysia is committed to complete ratification of TPPA by 2018, <http://www.bernama.com.my/bernama/v8/bu/newsbusiness.php?id=1285499>.

ISSN: 10116702

Source Type: Journal

Original language: English

Document Type: Article

Publisher: Kluwer Law International

Metrics [?](#)

0 Citations in Scopus

0 Field-Weighted

Citation Impact



PlumX Metrics [v](#)

Usage, Captures, Mentions, Social Media and Citations beyond Scopus.

Cited by 0 documents

Inform me when this document is cited in Scopus:

[Set citation alert >](#)

[Set citation feed >](#)

Related documents

Trans-pacific partnership what it portends

Seshadri, V.S.
(2014) *Economic and Political Weekly*

The economics of international trade agreements and dispute settlement with intellectual property rights

Bond, E.W.
(2005) *International Public Goods and Transfer of Technology Under a Globalized Intellectual Property Regime*

ACTA and cross-border enforcement of intellectual property

Blakeney, M.
(2014) *Research Handbook on Cross-border Enforcement of Intellectual Property*

View all related documents based on references

Find more related documents in Scopus based on:

References (24)

[View in search results format >](#)

All [Export](#) [Print](#) [E-mail](#) [Save to PDF](#) [Create bibliography](#)

- 1 Adam, A.
An Assessment of Malaysia's Compliance with the Current and Future International Standards of Criminal Enforcement Measures to Protect Against Copyright Piracy on a Commercial Scale
(2016) *J. Malay. Comp. L.*, 43 (1).
-
- 2 Adam, A.
A historical analysis of the criminal sanctions in the Malaysian copyright regime (1902-1969)

(2016) *Queen Mary Journal of Intellectual Property*, 6 (1), pp. 55-74.
<http://www.elgaronline.com/downloadpdf/journals/qmjip/6-1/qmjip.2016.01.03.xml>
doi: 10.4337/qmjip.2016.01.03

View at Publisher
-
- 3 Alexander, I.
Criminalising copyright: A story of publishers, pirates and pieces of eight

(2007) *Cambridge Law Journal*, 66 (3), pp. 625-656. Cited 5 times.
doi: 10.1017/S0008197307000694

View at Publisher
-
- 4 Bartholomew, M., McArdle, P.F.
(2011) *Causing Infringement*
accessed June 2016
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1555234
-
- 5 Bitton, M.
Rethinking the anti-counterfeiting trade agreement's criminal copyright enforcement measures

(2012) *Journal of Criminal Law and Criminology*, 102 (1), pp. 67-118. Cited 12 times.
http://www.law.northwestern.edu/jclc/backissues/v102/n1/1021_67.Bitton.pdf
-
- 6 Saw, C.L.
The case for criminalising primary infringements of copyright-perspectives from singapore

(2010) *International Journal of Law and Information Technology*, 18 (2), pp. 95-126. Cited 2 times.
doi: 10.1093/ijlit/eap002

View at Publisher
-
- 7 Fink, C.
Enforcing Intellectual Property Rights: An Economic Perspective, Advisory Committee on Enforcement
(2009) *Fifth Session, Geneva*
2—4 Nov
http://www.wipoint/edocs/mdocs/enforcement/en/wipo_ace:5/wipo_ace:5_6.pdf
-
- 8 Flynn, S.M., Baker, B., Margot Kaminski, M., Koo, J.
The U.S. Proposal for an Intellectual Property Chapter in the Trans-Pacific Partnership Agreement
(2012) *Am. U. Int'l L. Rev.*, 28. Cited 26 times.
-