

CLIP
(Very) preliminary proposal for a rule on contributory liability

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3:604 Contributory liability [Contributory infringement]

- (1) Subject to paragraph 2, the law applicable to liability based upon acts or conduct that contribute to or further an infringement is the same as the law applicable to that infringement.
- (2) In case of services being provided that enable infringements occurring through automated technical processes, without the provider of such services directing or initiating the individual actions resulting in infringement, the law applicable to the liability of the service provider is the law of the State [having the closest connection with the services in their entirety] [where the centre of gravity of the activities of the service provider is located] [where the service provider has its habitual residence]. [The law applicable to the contributory liability is also the law applicable to the remedies.].
- (3) Paragraph 2 does not exclude a finding of contributory liability against the service provider under the law applicable to an individual infringement, provided that the service provider was aware, in particular by having been given due notice, of [the facts and circumstances resulting in] that infringement [and provided that the sanctions for contributory liability under the law applicable to the individual infringement do not lead to foreclosure of, or otherwise impose substantial impediments on, the service as such].

AK, 10.05.2010