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Citation: 1 William H. Manz Federal Copyright Law The
Histories of the Major Enactments of the 105th
1 1999

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104TH CONGRESS
1ST SESSION

H. R. 2441

To amend title 17, United States Code, to adapt the copyright law to the digital, networked environment of the national information infrastructure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1995

Mr. MOORHEAD (for himself, Mrs. SCHROEDER, and Mr. COBLE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to adapt the copyright law to the digital, networked environment of the national information infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "NII Copyright Protec-
5 tion Act of 1995".

6 **SEC. 2. TRANSMISSION OF COPIES.**

7 (a) DISTRIBUTION.—Section 106(3) of title 17,
8 United States Code, is amended by striking "or by rental,

1 lease, or lending” and inserting “by rental, lease, or lend-
2 ing, or by transmission”.

3 (b) DEFINITIONS.—Section 101 of title 17, United
4 States Code, is amended—

5 (1) in the definition of “publication”, by strik-
6 ing “or by rental, lease, or lending” in the first sen-
7 tence and inserting “by rental, lease, or lending, or
8 by transmission”; and

9 (2) in the definition of “transmit”, by inserting
10 at the end thereof the following: “To ‘transmit’ a re-
11 production is to distribute it by any device or proc-
12 ess whereby a copy of phonorecord of the work is
13 fixed beyond the place from which it was sent.”.

14 (c) IMPORTATION.—Section 602 of title 17, United
15 States Code, is amended by inserting “whether by carriage
16 of tangible goods or by transmission,” after “Importation
17 into the United States,”.

18 **SEC. 3. EXEMPTIONS FOR LIBRARIES AND THE VISUALLY**
19 **IMPAIRED.**

20 (a) LIBRARIES.—Section 108 of title 17, United
21 States Code, is amended—

22 (1) in subsection (a)—

23 (A) by striking “one copy or phonorecord”
24 and inserting “three copies or phonorecords”;

1 (B) by striking “such copy or phono-
2 record” and inserting “no more than one of
3 such copies or phonorecords”;

4 (C) by inserting before the period at the
5 end of paragraph (3) the following: “if such no-
6 tice appears on the copy or phonorecord that is
7 reproduced under the provisions of this sec-
8 tion”;

9 (2) in subsection (b)—

10 (A) by inserting “or digital” after “fac-
11 simile”; and

12 (B) by inserting “in facsimile form” before
13 “for deposit for research use”; and

14 (3) in subsection (c) by inserting “or digital”
15 after “facsimile”.

16 (b) VISUALLY IMPAIRED.—Title 17, United States
17 Code, is amended by inserting after section 108 the follow-
18 ing new section:

19 **“§ 108A. Limitations on exclusive rights: Reproduc-**
20 **tion for the visually impaired**

21 “Notwithstanding the provisions of section 106, it is
22 not an infringement of copyright for a nonprofit organiza-
23 tion to reproduce and distribute to the visually impaired,
24 at cost, a Braille, large type, audio, or other edition of
25 a previously published literary work in a form intended

1 to be perceived by the visually impaired, provided that,
 2 during a period of at least one year after the first publica-
 3 tion of a standard edition of such work in the United
 4 States, the owner of the exclusive right to distribute such
 5 work in the United States has not entered the market for
 6 editions intended to be perceived by the visually im-
 7 paired.”.

8 **SEC. 4. COPYRIGHT PROTECTION SYSTEMS AND COPY-**
 9 **RIGHT MANAGEMENT INFORMATION.**

10 Title 17, United States Code, is amended by adding
 11 at the end the following new chapter:

“CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

“Sec. 1201. Circumvention of copyright protection systems.

“Sec. 1202. Integrity of copyright management information.

“Sec. 1203. Civil remedies.

“Sec. 1204. Criminal offenses and penalties.

12 **“§ 1201. Circumvention of copyright protection sys-**
 13 **tems**

14 “No person shall import, manufacture, or distribute
 15 any device, product, or component incorporated into a de-
 16 vice or product, or offer or perform any service, the pri-
 17 mary purpose or effect of which is to avoid, bypass, re-
 18 move, deactivate, or otherwise circumvent, without the au-
 19 thority of the copyright owner or the law, any process,
 20 treatment, mechanism, or system which prevents or inhib-
 21 its the violation of any of the exclusive rights of the copy-
 22 right owner under section 106.

1 **“§ 1202. Integrity of copyright management informa-**
2 **tion**

3 “(a) FALSE COPYRIGHT MANAGEMENT INFORMA-
4 TION.—No person shall knowingly provide copyright man-
5 agement information that is false, or knowingly publicly
6 distribute or import for public distribution copyright man-
7 agement information that is false.

8 “(b) REMOVAL OR ALTERATION OF COPYRIGHT
9 MANAGEMENT INFORMATION.—No person shall, without
10 authority of the copyright owner or the law, (i) knowingly
11 remove or alter any copyright management information,
12 (ii) knowingly distribute or import for distribution copy-
13 right management information that has been altered with-
14 out authority of the copyright owner or the law, or (iii)
15 knowingly distribute or import for distribution copies or
16 phonorecords from which copyright management informa-
17 tion has been removed without authority of the copyright
18 owner or the law.

19 “(c) DEFINITION.—As used in this chapter, ‘copy-
20 right management information’ means the name and other
21 identifying information of the author of a work, the name
22 and other identifying information of the copyright owner,
23 terms and conditions for uses of the work, and such other
24 information as the Register of Copyrights may prescribe
25 by regulation.

1 **“§ 1203. Civil rights**

2 “(a) CIVIL ACTIONS.—Any person injured by a viola-
3 tion of section 1201 or 1202 may bring a civil action in
4 an appropriate United States district court for such viola-
5 tion.

6 “(b) POWERS OF THE COURT.—In an action brought
7 under subsection (a), the court—

8 “(1) may grant temporary and permanent in-
9 junctions on such terms as it deems reasonable to
10 prevent or restrain a violation;

11 “(2) at any time while an action is pending,
12 may order the impounding, on such terms as it
13 deems reasonable, of any device or product that is
14 in the custody or control of the alleged violator and
15 that the court has reasonable cause to believe was
16 involved in a violation;

17 “(3) may award damages under subsection (c);

18 “(4) in its discretion may allow the recovery of
19 costs by or against any party other than the United
20 States or an officer thereof;

21 “(5) in its discretion may award reasonable at-
22 torney’s fees to the prevailing party; and

23 “(6) may, as part of a final judgment or decree
24 finding a violation, order the remedial modification
25 or the destruction of any device or product involved
26 in the violation that is in the custody or control of

1 the violator or has been impounded under paragraph
2 (2).

3 “(c) AWARD OF DAMAGES.—

4 “(1) IN GENERAL.—Except as otherwise pro-
5 vided in this chapter, a violator is liable for either
6 (i) the actual damages and any additional profits of
7 the violator, as provided in paragraph (2), or (ii)
8 statutory damages, as provided in paragraph (3).

9 “(2) ACTUAL DAMAGES.—The court shall
10 award to the complaining party the actual damages
11 suffered by him or her as a result of the violation,
12 and any profits of the violator that are attributable
13 to the violation and are not taken into account in
14 computing the actual damages, if the complaining
15 party elects such damages at any time before final
16 judgment is entered.

17 “(3) STATUTORY DAMAGES.—

18 “(A) At any time before final judgment is
19 entered, a complaining party may elect to re-
20 cover an award of statutory damages for each
21 violation of section 1201 in the sum of not less
22 than \$200 or more than \$2,500 per device,
23 product, or offer or performance of service, as
24 the court considers just.

1 “(B) At any time before final judgment is
2 entered, a complaining party may elect to re-
3 cover an award of statutory damages for each
4 violation of section 1202 in the sum of not less
5 than \$2,500 or more than \$25,000.

6 “(4) REPEATED VIOLATIONS.—In any case in
7 which the injured party sustains the burden of prov-
8 ing, and the court finds, that a person has violated
9 section 1201 or 1202 within 3 years after a final
10 judgment was entered against that person for an-
11 other such violation, the court may increase the
12 award of damages up to triple the amount that
13 would otherwise be awarded, as the court considers
14 just.

15 “(5) INNOCENT VIOLATIONS.—The court in its
16 discretion may reduce or remit altogether the total
17 award of damages in any case in which the violator
18 sustains the burden of proving, and the court finds,
19 that the violator was not aware and had no reason
20 to believe that its acts constituted a violation.

21 **“§ 1204. Criminal offenses and penalties**

22 “Any person who violates section 1202 with intent
23 to defraud shall be fined not more than \$500,000 or im-
24 prisoned for not more than 5 years, or both.”.

1 **SEC. 5. CONFORMING AMENDMENTS.**

2 (a) TABLE OF SECTIONS.—The table of sections for
3 chapter 1 of title 17, United States Code, is amended by
4 inserting after the item relating to section 108 the follow-
5 ing:

“108A. Limitations on exclusive rights: Reproduction for the visually impaired.”.

6 (b) TABLE OF CHAPTERS.—The table of chapters for
7 title 17, United States Code, is amended by adding at the
8 end the following:

“12. COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS 1201”.

9 **SEC. 6. EFFECTIVE DATE.**

10 This Act, and the amendments made by this Act,
11 shall take effect on the date of the enactment of this Act.

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