

# Overview of Digital Millennium Copyright Act (DMCA)

The Digital Millennium Copyright Act (DMCA) makes major changes to copyright law and attempts to address copyright in the digitally networked environment. DMCA was passed by the U.S. Congress on 12 Oct 1998 and signed into Public Law 105-304 on 28 Oct 1998 by President William Clinton. The DMCA was designed primarily to sufficiently address the World Intellectual Property Organization (WIPO) treaties signed at the Geneva conference during December of 1996. The law has five titles, the first four of which are of interest to postsecondary educational institutions. (The fifth title creates a new form of protection for the design of vessel hulls.)

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## Title I: WIPO Treaty Implementation

1. Prohibits the use of tools and technology to unlawfully bypass encryption measures used by the copyright holder to limit access. Several statutory limitations were created to enable the research and testing of such copyright protection devices and to allow for continued non-infringing uses of those works.
2. Prohibits the creation, trade and marketing of products meant solely to gain unauthorized access to copyrighted materials.
3. Prohibits the changing, removing, or falsifying of copyright information on a protected work.

## Title II: Online Copyright Infringement Liability Limitation

Title II outlines certain legal duties with which Online Service Providers (OSPs) must comply in order to limit their legal liabilities in the event a user of their service violates copyright laws. An OSP is defined as "an entity offering the transmission, routing, or providing of connections for digital online communications..." For purposes of the DMCA, WPI is regarded as an OSP for users of the WPI information technology infrastructure. Specifically Title II:

1. Limits copyright infringement liability for OSPs for the mere transmission of information as a conduit or transient host, provided no knowledge or financial gain is present.
2. Establishes guidelines for the removal by OSPs of material from the Internet that appears to be an infringement upon the knowledge by the OSP.
3. Limits liability against institutions under certain conditions when faculty members and graduate student employees in a teaching/research function use educational facilities in order to publish materials electronically.

## **Title III: Computer Maintenance or Repair Exemption**

This section of the law allows the owner or lessee of a machine to authorize the making of a copy of a computer program for the purpose of repair or maintenance of the computer.

## **Title IV: Miscellaneous Provisions**

This section of the law contains a number of miscellaneous amendments addressing functions of the Copyright Office, making digital copies, sound recordings and distance education to name a few. Of specific interest to universities:

1. Creation of ephemeral recordings made in order to facilitate a transmission.
2. Mandated study to develop an amendment to Copyright Law to promote distance education possible through the expansion of the existing exception for instructional broadcasting in section 110(2). NOTE: The end result of this process was the implementation of the Technology, Education, and Copyright Harmonization Act (TEACH Act).
3. Amended the exemption for nonprofit libraries and archives in section 108 of the Copyright Law to allow libraries and archives to take advantage of digital technologies when engaged in specified preservation activities.

## **Title V: Protection of Certain Original Designs**

This section of the DMCA is called the Vessel Hull Design Protection Act and is probably of little concern to WPI. This Act amends copyright law to protect new boat hull designs for a period of 10 years after the design was originally introduced.