

mation in a digital signal that was adopted in a voluntary, consensus standards-setting process open to participation by a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems.

(3) DEFINITIONS.—As used in this subsection—

(A) the term “broadcast station” has the meaning given that term in section 3 of the Communications Act of 1934 (47 U.S.C. 153); and

(B) the term “cable system” has the meaning given that term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(Added Pub. L. 105–304, title I, § 103(a), Oct. 28, 1998, 112 Stat. 2872; amended Pub. L. 106–44, § 1(e), Aug. 5, 1999, 113 Stat. 222.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (e)(2)(B)(ii)(II), is Oct. 28, 1998. See section 105 of Pub. L. 105–304, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

AMENDMENTS

1999—Subsec. (e)(2)(B). Pub. L. 106–44 substituted “category of works” for “category or works” in introductory provisions.

§ 1203. Civil remedies

(a) CIVIL ACTIONS.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

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

(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation, but in no event shall impose a prior restraint on free speech or the press protected under the 1st amendment to the Constitution;

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

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

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

(5) in its discretion may award reasonable attorney’s fees to the prevailing party; and

(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).

(c) AWARD OF DAMAGES.—

(1) IN GENERAL.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either—

(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or

(B) statutory damages, as provided in paragraph (3).

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

(3) STATUTORY DAMAGES.—(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than \$200 or more than \$2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

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

(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within 3 years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

(5) INNOCENT VIOLATIONS.—

(A) IN GENERAL.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

(B) NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTIONS, OR PUBLIC BROADCASTING ENTITIES.—

(i) DEFINITION.—In this subparagraph, the term “public broadcasting entity” has the meaning given such term under section 118(f).

(ii) IN GENERAL.—In the case of a non-profit library, archives, educational institution, or public broadcasting entity, the court shall remit damages in any case in which the library, archives, educational institution, or public broadcasting entity sustains the burden of proving, and the court finds, that the library, archives, educational institution, or public broadcasting entity was not aware and had no reason to believe that its acts constituted a violation.

(Added Pub. L. 105–304, title I, § 103(a), Oct. 28, 1998, 112 Stat. 2874; amended Pub. L. 106–113, div. B, § 1000(a)(9) [title V, § 5004(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–593; Pub. L. 111–295, § 6(f)(3), Dec. 9, 2010, 124 Stat. 3181.)

Editorial Notes

AMENDMENTS

2010—Subsec. (c)(5)(B)(i). Pub. L. 111-295 substituted “118(f)” for “118(g)”.

1999—Subsec. (c)(5)(B). Pub. L. 106-113 amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “In the case of a nonprofit library, archives, or educational institution, the court shall remit damages in any case in which the library, archives, or educational institution sustains the burden of proving, and the court finds, that the library, archives, or educational institution was not aware and had no reason to believe that its acts constituted a violation.”

§ 1204. Criminal offenses and penalties

(a) IN GENERAL.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

(1) shall be fined not more than \$500,000 or imprisoned for not more than 5 years, or both, for the first offense; and

(2) shall be fined not more than \$1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTION, OR PUBLIC BROADCASTING ENTITY.—Subsection (a) shall not apply to a nonprofit library, archives, educational institution, or public broadcasting entity (as defined under section 118(f)).

(c) STATUTE OF LIMITATIONS.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within 5 years after the cause of action arose.

(Added Pub. L. 105-304, title I, § 103(a), Oct. 28, 1998, 112 Stat. 2876; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5004(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-593; Pub. L. 111-295, § 6(f)(3), Dec. 9, 2010, 124 Stat. 3181.)

Editorial Notes

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-295 substituted “118(f)” for “118(g)”.

1999—Subsec. (b). Pub. L. 106-113 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.”

§ 1205. Savings clause

Nothing in this chapter abrogates, diminishes, or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual’s use of the Internet.

(Added Pub. L. 105-304, title I, § 103(a), Oct. 28, 1998, 112 Stat. 2876.)

CHAPTER 13—PROTECTION OF ORIGINAL DESIGNS

Sec.

- 1301. Designs protected.
- 1302. Designs not subject to protection.
- 1303. Revisions, adaptations, and rearrangements.

| Sec. | |
|-------|--|
| 1304. | Commencement of protection. |
| 1305. | Term of protection. |
| 1306. | Design notice. |
| 1307. | Effect of omission of notice. |
| 1308. | Exclusive rights. |
| 1309. | Infringement. |
| 1310. | Application for registration. |
| 1311. | Benefit of earlier filing date in foreign country. |
| 1312. | Oaths and acknowledgments. |
| 1313. | Examination of application and issue or refusal of registration. |
| 1314. | Certification of registration. |
| 1315. | Publication of announcements and indexes. |
| 1316. | Fees. |
| 1317. | Regulations. |
| 1318. | Copies of records. |
| 1319. | Correction of errors in certificates. |
| 1320. | Ownership and transfer. |
| 1321. | Remedy for infringement. |
| 1322. | Injunctions. |
| 1323. | Recovery for infringement. |
| 1324. | Power of court over registration. |
| 1325. | Liability for action on registration fraudulently obtained. |
| 1326. | Penalty for false marking. |
| 1327. | Penalty for false representation. |
| 1328. | Enforcement by Treasury and Postal Service. |
| 1329. | Relation to design patent law. |
| 1330. | Common law and other rights unaffected. |
| 1331. | Administrator; Office of the Administrator. |
| 1332. | No retroactive effect. |

§ 1301. Designs protected

(a) DESIGNS PROTECTED.—

(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public may secure the protection provided by this chapter upon complying with and subject to this chapter.

(2) VESSEL FEATURES.—The design of a vessel hull, deck, or combination of a hull and deck, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).

(3) EXCEPTIONS.—Department of Defense rights in a registered design under this chapter, including the right to build to such registered design, shall be determined solely by operation of subchapter I of chapter 275 of title 10 or by the instrument under which the design was developed for the United States Government.

(b) DEFINITIONS.—For the purpose of this chapter, the following terms have the following meanings:

(1) A design is “original” if it is the result of the designer’s creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source.

(2) A “useful article” is a vessel hull or deck, including a plug or mold, which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is part of a useful article shall be deemed to be a useful article.

(3) A “vessel” is a craft—

(A) that is designed and capable of independently steering a course on or through