

STATUTORY MARK-UP

Language added by a proposed amendment is in *italics*.
Proposed deletions are indicated by ~~strike-throughs~~.

17 U.S.C. § 106(3)

"(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, ~~or~~ by rental, lease, or lending, *or by transmission.*"

17 U.S.C. § 101

"'Publication' is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, ~~or~~ by rental, lease, or lending, *or by transmission.* The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication."

"To 'transmit' a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent. *To 'transmit' a reproduction is to distribute it by any device or process whereby a copy or phonorecord of the work is fixed beyond the place from which it was sent.*"

17 U.S.C. § 108

"(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope

of their employment, to reproduce no more than ~~one copy or phonorecord~~ *three copies or phonorecords* of a work, or to distribute ~~such copy or phonorecord~~ *no more than one of such copies or phonorecords*, under the conditions specified by this section, if--

"(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

"(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

"(3) the reproduction or distribution of the work includes a notice of copyright *if such notice appears on the copy or phonorecord that is reproduced under the provisions of this section.*

"(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile *or digital* form solely for purposes of preservation and security or *in facsimile form* for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

"(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile *or digital* form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price."

17 U.S.C. § 108A

"§ 108A. *Limitations on exclusive rights: Reproduction for the Visually Impaired.*

"Notwithstanding the provisions of section 106, it is not an infringement of copyright for a non-profit organization to reproduce and distribute to the visually impaired, at cost, a Braille, large type, audio or other edition of a previously published literary work in a form intended to be perceived by the visually impaired, provided that, during a period of at least one year after the first publication of a standard edition of such work in the United States, the owner of the exclusive right to distribute such work in the United States has not entered the market for editions intended to be perceived by the visually impaired."

17 U.S.C. § 602

"(a) Importation into the United States, *whether by carriage of tangible goods or by transmission*, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501."

Title 17, Chapter 12

*"Chapter 12. -- COPYRIGHT PROTECTION AND
MANAGEMENT SYSTEMS*

"Sec.

"1201. Circumvention of Copyright Protection Systems

"1202. Integrity of Copyright Management Information

"1203. Civil Remedies

"1204. Criminal Offenses and Penalties

"§ 1201. Circumvention of Copyright Protection Systems

"No person shall import, manufacture or distribute any device, product, or component incorporated into a device or product, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent, without the authority of the copyright owner or the law, any process, treatment, mechanism or system which prevents or inhibits the violation of any of the exclusive rights of the copyright owner under section 106.

"§ 1202. Integrity of Copyright Management Information

"(a) FALSE COPYRIGHT MANAGEMENT INFORMATION. -- No person shall knowingly provide copyright management information that is false, or knowingly publicly distribute or import for public distribution copyright management information that is false.

"(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION. -- No person shall, without authority of the copyright owner or the law, (i) knowingly remove or alter any copyright management information, (ii) knowingly distribute or import for distribution copyright management information that has been altered without authority of the copyright owner or the law, or (iii) knowingly distribute or import for distribution copies or phonorecords from which copyright management information has been removed without authority of the copyright owner or the law.

"(c) DEFINITION. -- As used in this chapter, "copyright management information" means the name and other identifying information of the author of a work, the name and other identifying information of the copyright owner, terms and conditions for uses of the work, and such other information as the Register of Copyrights may prescribe by regulation.

”§ 1203. Civil Remedies

”(a) CIVIL ACTIONS. -- Any person injured by a violation of Sec. 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;

”(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 subsection (2).

”(c) AWARD OF DAMAGES. --

”(1) IN GENERAL. -- Except as otherwise provided in this chapter, a violator is liable for either (i) the actual damages and any additional profits of the violator, as

provided by subsection (2) or (ii) statutory damages, as provided by subsection (3).

“(2) ACTUAL DAMAGES. -- The court shall award to the complaining party the actual damages suffered by him or her 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 device, product, 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 three years after a final judgment was entered against that 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. -- The court in its discretion may reduce or remit altogether 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.

"§ 1204. Criminal Offenses and Penalties

"Any person who violates section 1202 with intent to defraud shall be fined not more than \$500,000 or imprisoned for not more than 5 years, or both."

