U.S. Laws for Trademarks and Copyright

The following sections discuss U.S. laws concerning trademarks and copyright.

The Digital Millennium Copyright Act (DMCA) of 1998

This act was signed into law and passed on October 28, 1998, by President Clinton. It is subdivided into five titles:

- Article 11 of the WCT (WIPO Copyright Treaty) states:
  Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.
- Article 12 of the WCT provides the relevant part:
  Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this Treaty or the Berne Convention:
  (i) to remove or alter any electronic rights management information without authority;
  (ii) to distribute, import for distribution, broadcast, or communicate to the public, without authority, works or copies of works knowing that electronic rights management information has been removed or altered without authority.
- The new section 1202 is the provision implementing this obligation to protect the integrity of Copyright Management Information (CMI). The scope of the protection is set out in two separate paragraphs, the first dealing with false CMI and the second with removal or alteration of CMI.
  Subsection (a) prohibits the knowing provision or distribution of false CMI, if done with the intent to induce, enable, facilitate, or conceal infringement.
  Subsection (b) bars the intentional removal or alteration of CMI without authority, as well as the dissemination of CMI or copies of works, knowing that the CMI has been removed or altered without authority.
- Online Copyright Infringement Liability Limitation Act:
  Title II of the DMCA adds a new section 512 to the Copyright Act to create four new limitations on liability for copyright infringement by online service providers. The limitations are based on the following four categories of conduct by a service provider:
  1. Transitory communications;
  2. System caching;
  3. Storage of information on systems or networks at the direction of users; and
  4. Information location tools.
- Computer Maintenance Competition Assurance Act:
  Title III expands the existing exemption relating to computer programs in section 117 of the Copyright Act, which allows the owner of a copy of a program to make reproductions or adaptations when necessary to use the program in conjunction with a computer. The amendment permits the owner or lessee of a computer to make or authorize the making of a copy of a computer program in the course of maintaining or repairing that computer. The exemption only permits a copy that is made automatically when a computer is activated, and only if the computer already lawfully contains an authorized copy of the program. The new copy cannot be used in any other manner and must be destroyed immediately after the maintenance or repair is completed.