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Statement on signing the Digital Millennium Copyright Act

William J Clinton

October 28, 1998

Today I am pleased to sign into law H.R. 2281, the "Digital Millennium Copyright Act." This Act implements two landmark treaties that were successfully negotiated by my Administration in 1996 and to which the Senate gave its advice and consent to ratification on October 21, 1998. The Act also limits the liability of online service providers for copyright infringement under certain conditions.

The World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonogram Treaty mark the most extensive revision of international copyright law in over 25 years. The treaties will grant writers, artists, and other creators of copyrighted material global protection from piracy in the digital age.

These treaties will become effective at a time when technological innovations present us with great opportunities for the global distribution of copyrighted works. These same technologies, however, make it possible to pirate copyrighted works on a global scale with a single keystroke. The WIPO treaties set clear and firm standards-obligating signatory countries to provide "adequate legal protection" and "effective legal remedies" against circumvention of certain technologies that copyright owners use to protect their works, and against violation of the integrity of copyright management information. This Act implements those standards, carefully balancing the interests of both copyright owners and users.

I am advised by the Department of Justice that certain provisions of H.R. 2281 and the accompanying Conference Report regarding the Register of Copyrights raise serious constitutional concerns. Contrary to assertions in the Conference Report, the Copyright Office is, for constitutional purposes, an executive branch entity. Accordingly, the Congress may exercise its constitutionally legitimate oversight powers to require the Copyright Office to provide information relevant to the legislative process. However, to direct that Office's operations, the Congress must act in accord with the requirements of bicameralism and presentment prescribed in Article I of the Constitution. Further, the Congress may not require the Register to act in a manner that would impinge upon or undermine the President's discretion under Article II, section 3 of the Constitution to determine which, if any, executive branch recommendations to the Congress would be "necessary and expedient."

Accordingly, I will construe sections 103(a), 104(b), 401(b), and 403(a) of H.R. 2281 to require the Register to perform duties only insofar as such requirements are consistent with these constitutional principles.

From the efforts of the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks who acted as the lead negotiator for these treaties, to the agreement reached by interests affected by online service provider liability, to the improvements added by two House Committees and one Senate Committee, this Act reflects the diligence and talents of a great many people. Through enactment of the Digital Millennium Copyright Act, we have done our best to protect from digital piracy the copyright industries that comprise the leading export of the United States.

William J. Clinton

The White House,

October 28, 1998.

NOTE: H.R. 2281, approved October 28, was assigned Public Law No. 10-04. An original was not available for verification of the content of this statement.