HEINONLINE

Citation: 4 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th 1 1999

Content downloaded/printed from HeinOnline (http://heinonline.org) Thu Mar 28 13:04:16 2013

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License

-- The search text of this PDF is generated from uncorrected OCR text.

105TH CONGRESS
1ST SESSION

H. R. 2180

To amend title 17, United States Code, to provide limitations on copyright liability relating to material on-line, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1997

Mr. COBLE (for himself and Mr. HYDE) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 17, United States Code, to provide limitations on copyright liability relating to material on-line, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "On-Line Copyright Liability Limitation Act".

SEC. 2. LIMITATIONS ON LIABILITY.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding after section 511 the following new section:

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 1 1999

"§ 512. Limitations on liability relating to material on-line

"(a) EXEMPTIONS.—A person shall not be liable—

"(1) for direct infringement, or vicariously liable for the infringing acts of another, based solely on transmitting or otherwise providing access to material on-line, if the person—

"(A) does not initially place the material on-line;

"(B) does not generate, select, or alter the content of the material;

"(C) does not determine the recipients of the material;

"(D) does not receive a financial benefit directly attributable to a particular act of infringement;

"(E) does not sponsor, endorse, or advertise the material; and

"(F)(i) does not know, and is not aware by notice or other information indicating, that the material is infringing, or

"(ii) is prohibited by law from accessing the material; or

"(2) in the case of a finding of contributory infringement based solely on conduct for which a person is exempt from liability for direct infringement

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 2 1999

or vicarious liability under paragraph (1), for any remedy other than injunctive relief under section 502, except that such injunctive relief shall be available only to the extent that all acts required by such relief are technically feasible and economically reasonable to carry out.

Nothing in clause (i) of paragraph (1)(F) shall impose an affirmative obligation to seek information described in such clause.

"(b) LIMITATION BASED UPON REMOVING, DISABLING, OR BLOCKING ACCESS TO INFRINGING MATERIAL.—A person shall not be liable for any claim based on that person's removing, disabling, or blocking on-line access to material, in response to information by notice or otherwise indicating or alleging that the material is infringing, whether or not the material is infringing.

"(c) OTHER DEFENSES NOT AFFECTED.—Removing, disabling, or blocking access to material which a person transmits or to which a person otherwise provides on-line access, or the failure to do so, shall not adversely bear upon the consideration by a court of a defense to infringement asserted by that person under section 107 or any other provision of law.

"(d) MISREPRESENTATIONS.—Any person who knowingly materially misrepresents that material on-line is in-

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 3 1999

fringing shall be liable for any damages, including costs and attorneys' fees, incurred by any person who relies upon such misrepresentation in removing, disabling, or blocking access to the material claimed to be infringing.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"512. Limitations on liability relating to material on-line."

○

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 4 1999

Document No. 81

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [i] 1999

HeinOnline -- 4 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [ii] 1999