

Digital Millennium Copyright Act (DMCA)

Copyright Law is both powerful and well developed for traditional two and three dimensional mediums such as print and sculpture. However, computer works, digitized text, images, videos, sound, electronic databases, and the internet, quickly placed a slow-evolving legal system in great stress for many years with respect to copyright protection and infringement. The public outcry paved the way for the Digital Millennium Copyright Act.

The Digital Millennium Copyright Act (DMCA) was drafted and signed into law in October 1998. The DMCA is a complex piece of legislation intended to clarify the applicability of copyright law to the digital environment. It affirms the Copyright Act's balance between the grant of exclusive rights to copyright owners and exceptions to those rights for the public benefit. For example, the Digital Millennium Copyright Act contains provisions that, under certain circumstances, limit the liability of online service providers (ISP's) for copyright violations of their users.

Digital Millennium Copyright Act Highlights:

- Makes it a crime to circumvent anti-piracy measures built into most commercial software.
- Outlaws the manufacture, sale, or distribution of code-cracking devices used to illegally copy software.
- Does permit the cracking of copyright protection devices, however, to conduct encryption research, assess product interoperability, and test computer security systems.
- Provides exemptions from anti-circumvention provisions for nonprofit libraries, archives, and educational institutions under certain circumstances.
- In general, limits Internet service providers (ISPs) from copyright infringement liability for simply transmitting information over the Internet.
- Service providers, however, are expected to remove material from users' web sites that appears to constitute copyright infringement upon proper notification.

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Maine Cernota & Rardin, Registered Patent Attorneys

547 Amherst St., 3rd Floor, Nashua, NH 03063
603-886-6100 – info@mcr-ip.com

- Limits liability of nonprofit institutions of higher education -- when they serve as online service providers and under certain circumstances -- for copyright infringement by faculty members or graduate students.
- Requires that "webcasters" pay licensing fees to record companies.
- Requires that the Register of Copyrights, after consultation with relevant parties, submit to Congress recommendations regarding how to promote distance education through digital technologies while "maintaining an appropriate balance between the rights of copyright owners and the needs of users."
- States explicitly that "[n]othing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use..."

At Maine Cernota & Rardin, we take the position that Intellectual Property is the Business of the Future, and that copyright protection is an important and effective tool in the legal arsenal.