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COPYRIGHTS AND THE INTERNET

Copyrights took on new importance in 1998 with the passage of the Digital Millennium Copyright Act (DMCA). There are two main aspects of the DMCA - the takedown system / safe harbor for internet service providers and what are known as the digital rights management anti-circumvention provisions. With the rise of the internet, many service providers, web hosts, and owners of the internet's physical infrastructure were growing concerned that they may face liability for 3rd parties infringing activities. For example, could the owner of a router or server be held liable for contributory copyright infringement if that particular router or server handled a data packet of the infringing activity - even if it was only for a millisecond? Additionally, should large web hosts responsible for policing all of the content that resides on their servers, but was placed there by a third party? In order to settle the question Congress enacted the safe harbor provisions for service providers. If a service provider registers their contact information with the copyright office and they respond within a reasonable time to a notice of infringing material meeting certain criteria, they cannot be held liable for contributory copyright infringement, nor can the other party hold them liable for blocking the content while they investigate the veracity of the infringement claim. If you are in the business of hosting content on the web, or have third party content on your site, these provisions can go a long way to reducing your liability for copyright infringement caused by the actions of third parties.

The second major aspect of the DMCA is its prohibition against the circumvention of digital rights management devices. This prohibition is mainly aimed at DVD's, CD's, software, MP3's, and video games. The act provides harsh penalties (willful violation of the DMCA can be a felony) for those who attempt to circumvent any such rights management devices. The most notable case involving prosecution under the DMCA involves the creation and distribution of software that enables users to avoid copy protection on commercial DVD's. The act has exemptions where circumvention is allowed, including circumvention for the purpose of attaining program-to-program interoperability and research for encryption and digital security systems. There has been a great deal of controversy surrounding the passing and implementation of the DMCA. The anti-circumvention provisions of the act were passed in 1998 in response to the US's treaty obligations under the WIPO. However, opponents of the act believe the act goes beyond the US's treaty obligations. They argue the act undermines the viability of the fair use,

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the act stifles innovation, competition, and research, and the act does not help achieve its goal of stopping internet piracy. These concerns have led scholars and practitioners to seek revision of the DMCA.

Leyendecker & Lemire, LLC is a Denver-based law firm offering a full spectrum of Intellectual Property, Business and Entertainment related legal services for entrepreneurs, individual inventors, and businesses of all sizes. We pride ourselves in providing large firm quality, but with personalized service and attention the large firms do not provide to their smaller clients. Our strength is working with a client from the beginning of his/her venture to maximize the venture's value and potential, as well as, help minimize the risk of legal disputes. Call (303) 768-0123 or e-mail us at info@coloradoiplaw.com today to see how we can help you!

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