

108TH CONGRESS
1ST SESSION

H. R. 2517

To enhance criminal enforcement of the copyright laws, educate the public about the application of copyright law to the Internet, and clarify the authority to seize unauthorized copyrighted works.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2003

Mr. SMITH of Texas (for himself, Mr. BERMAN, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enhance criminal enforcement of the copyright laws, educate the public about the application of copyright law to the Internet, and clarify the authority to seize unauthorized copyrighted works.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Piracy Deterrence and
5 Education Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) The Internet, while changing the way our
2 society communicates, has also changed the nature
3 of many crimes, including the theft of intellectual
4 property.

5 (2) Trafficking in copyrighted works through
6 increasingly sophisticated electronic means, including
7 peer-to-peer file trading networks, Internet chat
8 rooms, and newsgroups, threatens lost jobs, lost in-
9 come for creators, lower tax revenue, and higher
10 prices for honest purchasers.

11 (3) The most popular peer-to-peer file trading
12 software programs have been downloaded by com-
13 puter users over 200,000,000 times. At any one time
14 there are over 3,000,000 users simultaneously using
15 just one of these services. Each month, on average,
16 over 2,300,000,000 digital-media files are trans-
17 ferred among users of peer-to-peer systems.

18 (4) Many computer users either do not know
19 that copyright laws apply to Internet activity or sim-
20 ply believe that they will not be caught or prosecuted
21 for their conduct.

22 (5) In addition, many of the computer users
23 drawn to the convenience of peer-to-peer systems do
24 not realize that these systems pose serious security
25 and privacy threats to their personal computers or

1 company networks. Recent studies reveal that the
2 majority of the users of these systems are unable to
3 tell what files they are sharing and sometimes incor-
4 rectly assume they were not sharing any files when
5 in fact they were sharing all files on their hard
6 drive.

7 (6) The security and privacy threats posed by
8 peer-to-peer networks extend beyond users inadvert-
9 ently enabling a hacker to access files. Millions of
10 copies of one of the most popular peer-to-peer net-
11 works contain software that could allow an inde-
12 pendent company to take over portions of users'
13 computers and Internet connections and has the ca-
14 pacity to keep track of users' online habits.

15 (7) In light of these considerations, it is impor-
16 tant that Federal law enforcement agencies actively
17 pursue criminals who steal the copyrighted works of
18 others, and prevent such activity through enforce-
19 ment and awareness. It is also important that the
20 public be educated about the security and privacy
21 risks associated with being connected to an unau-
22 thorized peer-to-peer network.

23 (8) In addition, the Bureau of Customs and
24 Border Protection of the Department of Homeland
25 Security has the authority to act against infringe-

1 ments of copyrighted works, including those works
2 protected under the Berne Convention and the
3 Agreement on Trade Related Aspects of Intellectual
4 Property of the World Trade Organization. Under
5 United States law, merchandise can be seized by or
6 forfeited to the Bureau of Customs and Border Pro-
7 tection if “it is merchandise or packaging in which
8 copyright, trademark, or trade name protection vio-
9 lations are involved” (section 596(c)(2)(C) of the
10 Tariff Act of 1930 (19 U.S.C. 1595a(c)(2)(C)).

11 (9) Though the regulations of the Bureau of
12 Customs and Border Protection (section 133.31 of
13 title 19, Code of Federal Regulations) provide that
14 registered copyrighted works may be recorded with
15 the Bureau for “import protection,” recordation is
16 not explicitly required before infringing merchandise
17 can be seized or forfeited. Notwithstanding present
18 legal authority, there have been concerns raised
19 about the authority of the Bureau of Customs and
20 Border Protection to seize infringing copyrighted
21 materials that have neither been registered with the
22 United States Copyright Office or recorded with the
23 Bureau.

24 (10) Neither United States nor foreign works
25 require registration with the Copyright Office for

1 protection of the copyright in those works. United
2 States works require registration only before an ac-
3 tion for infringement is brought under title 17,
4 United States Code. A foreign work need not be reg-
5 istered to bring such an action for infringement, and
6 none of the rights contained in title 17, United
7 States Code, including the right to control distribu-
8 tion in section 106 of that title or importation under
9 section 602 of that title, are contingent upon reg-
10 istration. In accordance with the international obli-
11 gations of the United States barring the use of for-
12 malities, United States law gives foreign copyright
13 owners direct access to United States courts and
14 procedures without resort to any registration re-
15 quirement, and section 603 of title 17, United
16 States Code, directs the Secretary of the Treasury
17 and the United States Postal Service to separately
18 or jointly make regulations for the enforcement of
19 the provisions of title 17, United States Code, pro-
20 hibiting importation.

21 (11) Notwithstanding the preceding provisions
22 of this section, the Bureau of Customs and Border
23 Protection has been unclear about its legal authority
24 to seize infringing copyrighted materials that have
25 neither been registered with the Copyright Office nor

1 recorded with the Bureau. To provide clarity, it is
2 necessary to specify the authority of the Bureau of
3 Customs and Border Protection to seize infringing
4 materials protected by the copyright laws, with or
5 without registration or recordation.

6 **SEC. 3. DETERRENCE AND COORDINATION.**

7 The Director of the Federal Bureau of Investigation
8 shall—

9 (1) develop a program to deter members of the
10 public from committing acts of copyright infringe-
11 ment by—

12 (A) offering on the Internet copies of copy-
13 righted works, or

14 (B) making copies of copyrighted works
15 from the Internet,

16 without the authorization of the copyright owners;
17 and

18 (2) facilitate the sharing among law enforce-
19 ment agencies, Internet service providers, and copy-
20 right owners of information concerning activities de-
21 scribed in subparagraphs (A) and (B) of paragraph
22 (1).

23 The program under paragraph (1) shall include issuing
24 appropriate warnings to individuals engaged in an activity

1 described in subparagraph (A) or (B) of paragraph (1)
2 that they may be subject to criminal prosecution.

3 **SEC. 4. DESIGNATION AND TRAINING OF AGENTS IN COM-**
4 **PUTER HACKING AND INTELLECTUAL PROP-**
5 **ERTY UNITS.**

6 (a) DESIGNATION OF AGENTS IN CHIPS UNITS.—
7 The Attorney General shall ensure that any unit in the
8 Department of Justice responsible for investigating com-
9 puter hacking or responsible for investigating intellectual
10 property crimes is assigned at least one agent to support
11 such unit for the purpose of investigating crimes relating
12 to the theft of intellectual property.

13 (b) TRAINING.—The Attorney General shall ensure
14 that each agent assigned under subsection (a) has received
15 training in the investigation and enforcement of intellec-
16 tual property crimes.

17 **SEC. 5. EDUCATION PROGRAM.**

18 (a) ESTABLISHMENT.—There shall be established
19 within the Office of the Associate Attorney General of the
20 United States an Internet Use Education Program.

21 (b) PURPOSE.—The purpose of the Internet Use
22 Education Program shall be to—

23 (1) educate the general public concerning the
24 value of copyrighted works and the effects of the
25 theft of such works on those who create them;

1 (2) educate the general public concerning the
2 privacy, security, and other risks of using the Inter-
3 net to obtain unauthorized copies of copyrighted
4 works;

5 (3) coordinate and consult with the Department
6 of Education on compliance by educational institu-
7 tions with applicable copyright laws involving Inter-
8 net use; and

9 (4) coordinate and consult with the Department
10 of Commerce on compliance by corporations with ap-
11 plicable copyright laws involving Internet use.

12 **SEC. 6. CUSTOMS RECORDATION.**

13 (a) REGISTRATION AND INFRINGEMENT ACTIONS.—
14 Section 411(a) of title 17, United States Code, is amended
15 by inserting after the first sentence the following: “An ac-
16 tion for infringement of the copyright in any United States
17 work shall not include any action brought by the Govern-
18 ment of the United States or by any agency or instrumen-
19 tality thereof.”.

20 (b) INFRINGING IMPORTATION.—Section 602(a) of
21 title 17, United States Code, is amended by inserting be-
22 fore the period at the end of the first sentence the fol-
23 lowing: “, regardless of whether that work has been reg-
24 istered with the Copyright Office or recorded with the Bu-

1 reau of Customs and Border Protection of the Department
2 of Homeland Security”.

3 (c) IMPORTATION PROHIBITIONS.—Section 603(a) of
4 title 17, United States Code, is amended by inserting be-
5 fore the period the following: “of copies or phonorecords
6 of a work protected under this title, regardless of whether
7 that work has been registered with the Copyright Office
8 or recorded with the Bureau of Customs and Border Pro-
9 tection of the Department of Homeland Security”.

10 **SEC. 7. INFRINGEMENT WARNING NOTICE.**

11 The Attorney General shall, within 3 months after
12 the date of the enactment of this Act, set forth criteria
13 under which copyright owners designated by the Attorney
14 General will be able to use the seal of the Federal Bureau
15 of Investigation for deterrent purposes in connection with
16 physical and digital copies and phonorecords and digital
17 transmission of their works of authorship.

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