110TH CONGRESS 1ST SESSION

H. R. 1201

To amend title 17, United States Code, to promote innovation, to encourage the introduction of new technology, to enhance library preservation efforts, and to protect the fair use rights of consumers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2007

Mr. Boucher (for himself, Mr. Doolittle, and Ms. Lofgren of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to promote innovation, to encourage the introduction of new technology, to enhance library preservation efforts, and to protect the fair use rights of consumers, and for other purposes.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Freedom and Innovation Revitalizing U.S. Entrepreneurship Act of 2007”.

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SEC. 2. COPYRIGHT INFRINGEMENT.

(a) Statutory Damages Adjustment.—Section 504(c)(2) of title 17, United States Code, is amended by adding at the end the following: “The court shall remit statutory damages for secondary infringement, except in a case in which the copyright owner sustains the burden of proving, and the court finds, that the act or acts constituting such secondary infringement were done under circumstances in which no reasonable person could have believed such conduct to be lawful.”

(b) Codification of Supreme Court Precedent Applicable to Hardware Devices.—Section 501 of title 17, United States Code, is amended by adding at the end the following:

“(g) Certain Hardware Devices.—No person shall be liable for copyright infringement based on the design, manufacture, or distribution of a hardware device or of a component of the device if the device is capable of substantial, commercially significant noninfringing use.”

SEC. 3. DMCA AMENDMENTS.

(a) Codification of Determination of Librarian of Congress.—Section 1201(a)(1) of title 17, United States Code, is amended by adding at the end the following new subparagraph:

“(F) The prohibition contained in subparagraph (A) shall not apply to a person by reason of that person’s en-
gaging in a noninfringing use of any of the 6 classes of
copyrighted works set forth in the determination of the
Librarian of Congress in Docket No. RM 2005–11, as
published as a final rule by the Copyright Office, Library
of Congress, effective November 27, 2006 (71 FR 68472
(Nov. 27, 2006)).”.

(b) EXTENSION OF DETERMINATIONS OF LIBRARIAN
OF CONGRESS.—Section 1201(a)(1) of title 17, United
States Code, is amended by adding at the end the fol-
lowing new subparagraph:

“(G) The prohibition contained in subparagraph (A)
shall not apply to—

“(i) an act of circumvention that is carried out
solely for the purpose of making a compilation of
portions of audiovisual works in the collection of a
library or archives for educational use in a classroom
by an instructor;

“(ii) an act of circumvention that is carried out
solely for the purpose of enabling a person to skip
past or to avoid commercial or personally objection-
able content in an audiovisual work;

“(iii) an act of circumvention that is carried out
solely for the purpose of enabling a person to trans-
mit a work over a home or personal network, except
that this exemption does not apply to the circumven-
tion of a technological measure to the extent that it prevents uploading of the work to the Internet for mass, indiscriminate redistribution;

“(iv) an act of circumvention that is carried out solely for the purpose of gaining access to one or more works in the public domain that are included in a compilation consisting primarily of works in the public domain;

“(v) an act of circumvention that is carried out to gain access to a work of substantial public interest solely for purposes of criticism, comment, news reporting, scholarship, or research; or

“(vi) an act of circumvention that is carried out solely for the purpose of enabling a library or archives meeting the requirements of section 108(a)(2), with respect to works included in its collection, to preserve or secure a copy or to replace a copy that is damaged, deteriorating, lost, or stolen.”.