

USCA Copyright Infringement Policy

The unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject students to civil and criminal liabilities. A summary of the penalties for violation of federal copyright laws are listed below. Students found to have participated in unauthorized peer-to-peer file sharing or the illegal downloading or unauthorized distribution of copyrighted materials are subject to suspension or expulsion.

Copyright Law of the United States of America and Related Laws Contained in Title 17 of the *United States Code*
Chapter 12¹

§ 1203 · Civil remedies

- (a) Civil Actions.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.
- (b) Powers of the Court.—In an action brought under subsection (a), the court—
- (1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation, but in no event shall impose a prior restraint on free speech or the press protected under the 1st amendment to the Constitution;
 - (2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;
 - (3) may award damages under subsection (c);
 - (4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;
 - (5) in its discretion may award reasonable attorney's fees to the prevailing party; and
 - (6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).
- (c) Award of Damages.—
- (1) In general.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either—
 - (A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or
 - (B) statutory damages, as provided in paragraph (3).
 - (2) Actual damages.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

(3) Statutory damages.—(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than \$200 or more than \$2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than \$2,500 or more than \$25,000.

(4) Repeated violations.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

(5) Innocent violations.—

(A) In general.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

(B) Nonprofit library, archives, educational institutions, or public broadcasting entities.—

(i) Definition.—In this subparagraph, the term “public broadcasting entity” has the meaning given such term under section 118(f).

(ii) In general.—In the case of a nonprofit library, archives, educational institution, or public broadcasting entity, the court shall remit damages in any case in which the library, archives, educational institution, or public broadcasting entity sustains the burden of proving, and the court finds, that the library, archives, educational institution, or public broadcasting entity was not aware and had no reason to believe that its acts constituted a violation.

§ 1204 · Criminal offenses and penalties

(a) In General.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

(1) shall be fined not more than \$500,000 or imprisoned for not more than 5 years, or both, for the first offense; and

(2) shall be fined not more than \$1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

(b) Limitation for Nonprofit Library, Archives, Educational Institution, or Public Broadcasting Entity.—Subsection (a) shall not apply to a nonprofit library, archives, educational institution, or public broadcasting entity (as defined under section 118(f)).

(b) Statute of Limitations.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within five years after the cause of action arose.