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DMCA Copyright Protections: Uniquely American or Common & Uniform Abroad?

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Computer, Internet, and related digital technology are the functional platform upon which many of the largest and most robust economies across the globe now operate. Further, these services are vital for the continued operation and integration of the global economy. Accordingly, legal liability relating to actions (or failures to act) in cyberspace and other media now greatly affects decisions by governments, companies, and individuals across the globe.

In the ten-plus years since the Digital Millennium Copyright Act (DMCA) took effect in the United States, many of the jurisdictions topping rankings of annual GDP lists have enacted similar laws or provisions. The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) generally require that treaty signatories provide copyright protection concerning technological measures used to protect copyrighted works, as well as regarding rights-management information. Thus, the signatories to these treaties are more likely to have enacted laws similar to the DMCA than non-signatory countries.[1] However, non-signatory countries may also have laws providing similar protections. However, a review of the law in the individual jurisdictions would be necessary to confirm the extent of such protection.

To determine the extent to which these provisions have been implemented and the specific embodiment that these provisions take in a given country, one must analyze the specific laws in each jurisdiction. Analysis of individual laws is necessary because, while many of the countries analyzed herein are signatories to common copyright treaties such as the Berne Convention and the WIPO Copyright Treaty,[2] each possesses significant freedom regarding *how* to implement specific provisions of these treaties within the framework of their existing laws.[3]

This article provides a brief review of some of the key DMCA-type provisions implemented in Canada, China, the European Union, India, Japan, and Taiwan, resulting from each respective country's implementation of the WIPO Copyright Treaty and/or the WIPO Performances and Phonograms Treaty.

Background on the DMCA

Congress enacted the DMCA on October 28, 1998. The DMCA implements two 1996 World Intellectual Property Organization (WIPO) treaties: The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.[4] The DMCA is divided into five titles:

- Title I: WIPO Copyright and Performances and Phonograms Treaties Implementation Act;
- Title II: Online Copyright infringement Liability Limitation;

- Title III: Computer Maintenance Competition Assurance Act;
- Title IV: Miscellaneous provisions relating to the functions of the Copyright Office, "ephemeral recordings," "webcasting," and collective bargaining agreements; and
- Title V: Vessel Hull Design Protection Act.

Title I, among other things, creates two prohibitions in Title 17 of the US Code: a first prohibiting circumvention of technological measures used by copyright owners to protect their works and a second prohibiting tampering with copyright management information.

Title II, in adding new § 512 to the Copyright Act, creates a safe harbor by placing limitations on liability for copyright infringement by online service providers. These limitations are based on four primary categories of conduct by "service providers":

1. Transitory communications;
2. System caching;
3. Storage or transmission of information at the direction of users; and
4. Information location tools.

Titles I and II, taken together, are typically considered the heart of the DMCA.

Title III expands exemptions relating to computer programs allowing an owner of a copy of a program to make reproductions or adaptations when necessary to use the program in conjunction with a computer. For example, this title permits an owner of a computer to make (or permit making of) a copy of a computer program in the course of maintaining or repairing that computer.

Title IV includes a number of miscellaneous provisions. Among the miscellaneous provisions is confirmation of the Copyrights Office's authority regarding policy and international functions and an exemption under the Copyright Act for making "ephemeral recordings" (*e.g.*, recordings to facilitate a transmission). Title IV also expands the Digital Performance Right in Sound Recordings Act (DPRA) to include webcasting as a new category of "eligible nonsubscription transmissions," revises the criteria for an entity to be eligible for a license, and creates a new statutory license for making ephemeral recordings. Title IV also addresses the assumption of contractual obligations upon transfer of rights in motion pictures.

Title V adds a new Chapter 13 to Title 17 of the US Code and, along with it, creates a new system for protecting original designs of certain useful articles (*i.e.*, hulls of vessels no longer than 200 feet). [5]

This article principally discusses Titles I and II—circumvention of technological protections and the safe harbor provisions for service providers—and whether various foreign jurisdictions provide similar types of protection.

DMCA-Type Provisions by Country

Canada

Canada has signed the WCT and WPPT but has not yet enacted corresponding laws, or at least not to the

extent of several of the other listed countries. However, it appears poised and ready to do so in the near future to bring the treaties into force. Further DMCA-style reform may be enacted soon, as the Canadian government's most recent attempt at implementing DMCA-style changes to Canadian Copyright Law occurred on June 12, 2008, with the introduction of Bill C-61.[6] This bill, the successor to C-60,[7] recently died when the 39th Parliament dissolved on September 7, 2008. However, the Conservative Party of Canada has vowed, as a part of its 2008 election platform, to reintroduce the substance of C-61 if reelected.[8] If the contents of C-61 are passed in its current forms, both copyright creators and consumers would receive certain respective benefits.

Copyright creators would appear to gain new rights while having certain other rights more firmly codified. For example, C-61 includes, akin to a distribution right, a "making available" right for creators that gives creators the right to sue for copyright infringement. Such an explicit right may make it easier to sue file-swappers because creators will no longer have to prove that others are downloading the file in question because "making the material available" will be a sufficient act to constitute infringement.[9] Further, like the anti-circumvention provisions of the DMCA, C-61 would make it illegal to circumvent Digital Rights Management (DRM) and to provide circumvention services or devices to others. C-61 would, however, permit circumvention for limited lawful purposes, such as reverse engineering, security testing, and encryption research.

Regarding consumers' rights, the legality of personal copying, such as time-shifting of TV shows by recording for later personal viewing, copying of legally purchased music onto other devices, and making back-up copies of legally purchased content (*i.e.*, books, photographs, newspapers, videocassettes),[10] are confirmed in C-61. C-61 also caps statutory damages at CAN$500, a provision often asked for by consumer advocates. However, skeptics of C-61 believe that the cap will apply only to narrow factual circumstances and believe that actions such as posting music on peer-to-peer networks or uploading pictures or videos to Web sites including commonly used sites such as Facebook and YouTube might not be insulated from significantly higher statutory damages under the current form of C-61.[11]

Regardless of whether C-61 or similar regulations ever are enacted, Canadian law already includes limited DMCA-type provisions. For example, Canada has legislated other anti-circumvention provisions. Decoding scrambled radio or television subscription programming or operating a radio or television to receive them without proper consent is an offense subject to fine or imprisonment.[12] Importing, manufacturing, distributing, modifying, programming, reprogramming, leasing and offering for lease, selling and offering for sale equipment that is specifically designed to defeat encryption of a secured broadcast signal is also consider actionable. Further, making, possessing, or distributing devices such as decoders or computer programs for the aforementioned purposes can be criminal offenses.[13]

Additionally, broadcasters currently can use two specific exemptions under copyright law that resemble DMCA-type protections. First, broadcasters are allowed to record, using their own facilities, live performances that they are authorized to telecommunicate.[14] Second, broadcasters are permitted to transfer sound recordings

that they own onto a more appropriate format for broadcasting.[15] Both of these limited exemptions are further limited in that the fixation cannot later be synchronized or used for advertising and must be destroyed within 30 days. Also, neither of these two exemptions applies if a collecting society can issue a license for the activity.[16]

China

China's laws in accordance with the WCT and WPPT went into force on June 9, 2007. In China, "computer software" is specifically identified as one of the "forms of expression" protectable by copyright.[17] Chinese law also provides anti-circumvention protection for computer technology. China's first anti-circumvention provisions were set forth in 1998 in the form of ministry regulations (Interim Regulations). Article 18 of the Interim Regulations prohibits "production of pirated software, software for deciphering secrets, and software with the main function of removing technology-protection measures."[18] Further anti-circumvention regulations were later introduced in the Copyright Law of 2001, which prohibits "intentionally avoiding or destroying the technical measures" taken by copyright owners or obliges without permission or unless otherwise authorized under the law.[19] These same anti-circumvention rules were also promulgated by the State Council in 2002 in the Regulations on the Protection of Computer Software.[20]

More recently, on June 1, 2006, the State Council set forth further anti-circumvention rules explicitly authorizing an owner to adopt "technical measures" to "protect the right to network dissemination of information."[21] These rules prohibit organizations or individuals from purposely avoiding or breaking the technical measures (often in an attempt at reverse engineering) or purposely manufacturing, importing, or providing to the general public devices or components that are mainly used to avoid or break the technical measures unless otherwise provided for in law or regulation.[22] Thus, China has adopted several provisions in the spirit of the DMCA related to the anti-circumvention provisions of Title I of DMCA.

These recent developments in Chinese law are generally believed to have expanded the scope of protections available to copyright holders (and adjacent right holders) using encryption software and various other technical measures to protect copyrighted subject matter and content.[23] However, it has been suggested by some that the current anti-circumvention laws need to be improved because the current provisions are "too simple and vague," including a lack of limits on the scope of protection, make no distinction between the varied technical measures used, and fail to account for or explicitly exempt legitimate or potentially desirable circumvention activities (*e.g.*, research and academic arenas) as is done in many other countries.[24]

On January 26, 2009, after a dispute initiated by the United States, a panel of the World Trade Organization (WTO) determined that certain provisions of China's intellectual property laws were not in compliance with the Berne Convention and the TRIPS Agreement.[25] Specifically, the panel determined that China's copyright laws do not provide the same efficacy to non-Chinese nationals as they do to Chinese citizens, as is required by the Berne Convention.[26] The panel also determined that China's copyright laws do not provide enforcement procedures to permit effective action against any act of infringement of intellectual

property rights, as required by the TRIPS Agreement.[27] Based on these findings, the panel concluded that China's copyright laws nullify or impair benefits accruing to the United States and recommended that China amend its laws to be in conformity with its obligations under the TRIPS Agreement.[28] As a result, expect additional changes to China's intellectual property laws in the future.

European Union

Two directives enacted in the European Union (EU)—a directive on computer programs and a directive on harmonization—contain many of the computer-related and DMCA-type provisions that regulate member states and their associated national laws.[29] Together these two directives establish a copyright framework having many similarities to the framework established in the United States. However, while the EU has signed the WCT and WPPT, the EU has not yet enacted laws sufficient to comply with either treaty.

On May 24, 1991, consistent with the Berne Convention, the EC Council adopted the Directive on the legal protection of computer programs (Directive on Computer Programs) requiring member states to protect computer programs under copyright as literary works.[30] The Directive on Computer Programs set forth certain activities that only rights holders have or can authorize.[31] Article 4(a) restricts "the permanent or temporary reproduction of a computer program" and specifies that, to the extent that loading, displaying, running, transmission, or storage of the computer program requires reproduction, these acts are subject to the authorization of the rights holder.[32] "Translation, adaptation, arrangement and any other alteration of a computer, and the reproduction of the results thereof"[33] are restricted, as is "distribution to the public, including the rental, of the original computer program or copies thereof."[34] In balancing out the restrictions, Article 5 also states that, absent specific contractual provisions, the restricted acts of Article 4(a) and (b) "shall not require authorization by the rights holder where they are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose, including any error protection."[35] Article 5 also prohibits contracting to prevent the "making of a back-up copy by a person having a right to use the computer program . . . insofar as it is necessary for that use"[36] and permits "observ[ation], study or test[ing] of the functioning of the program in order to determine the ideas and principles, which underlie any element of the program."[37]

Ten years later, the EU passed further copyright-related regulations relating to DMCA-type protections. Directive 2001/29/EC of the European parliament and of the Council on May 22, 2001, on the harmonization of certain aspects of copyright and related rights in the information society[38] (Harmonization Directive) was intended to implement the WIPO Copyright Treaty and the WIPO Performers and Phonograms Treaty. Like the DMCA, the Harmonization Directive was drafted to update copyright law to reflect the proliferation of computers and communication networks. With a similar purpose, and the DMCA already in place, many of the provisions of the Harmonization Directive have similar language.

Articles 2, 3, and 4 of the Harmonization Directive, respectively, set forth a "reproduction right," a "right of communication to the public" or "right of making available to the public," and a "distribution right." It

is the second right in this list, the right of communication/right of making available, that generally relates to Internet publication and transmission.

Article 5 of the Harmonization Directive provides a listing of 20 optional exceptions and limitations that member states *may apply* to copyright and related rights.[39] Of these 20 limitations, five limit the rights of reproduction and distribution and the other 15 limit reproduction and distribution and the right of communication or making available to the public.[40] The Harmonization Directive was drafted such that the member states could choose only among the exhaustive list of potential limitations provided in Article 5. In light of the member state's ability to implement limitations provided for in this Directive based upon Member State, each member state's particular implementation is likely to vary to some degree. Among the limitations, on the reproduction right (Article 2) and the right of communication to the public or making available to the public (Article 3) are for "sole purpose of illustration for teaching or scientific research,"[41] "public security,"[42] and "demonstration or repair of equipment,"[43] to name a few. However, Article 5 also indicates that member states may further limit copyright and related rights by other "exceptions or limitations [that] already exist under national law" provided that those limitations "only concern analogous uses" and "do not affect free circulation of goods and services with the Community."[44]

The Harmonization Directive also requires protection of technological measures[45] and rights-management information.[46] Article 6 of the Harmonization Directive provides protection for "technological measures," defined as "any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts…not authorized by the rightholder . . . ."[47] In order to comply, member states must provide "adequate legal protection against the circumvention of any effective technological measures," that is, member states must provide civil and/or criminal legal protections.[48] As explicitly stated, "technological measures" are only protected if they are "effective." However, the threshold of effectiveness is not that the technological measures actually work but rather that they were successfully implemented. An example of an effective technological measure would be a simple password if it was actually implemented, even though it may be considered a simple technological measure that is comparatively easy to crack. As previously mentioned, Article 7 requires similar legal protections also be implemented with respect to rights-management information.

Pursuant to the Directive on Harmonization, member states were required to enact laws, regulations, and administrative provisions necessary to comply with the Directive before December 22, 2002.[49] The requirement for compliance with the Directive by the end of 2002 of course does not ensure that all member states were in compliance by that date, as the European Commission has taken proceedings in the European Court of Justice against at least six member states for failing to implement the Directive by the deadline.[50]

India

India, as compared to other jurisdictions considered in this article, has been a little slower and less comprehensive in its implementation of DMCA-type laws. Indeed, India has not signed either the WCT or

WPPA. However, India continues to contemplate implementation of DMCA-type provisions. As a result, India may continue to revise its copyright laws to include further provisions that resemble the DMCA. For example, some believe that India's laws will soon be amended with the introduction of anti-circumvention provisions and protections for rights-management information.[51]

In India, like most other jurisdictions that provide copyright protection of computer programs and related subject matter, computer programs are considered "literary works."[52] Despite being considered literary works, computer programs receive special consideration under Indian law based on a right "to sell or give on commercial rental or offer for sale or for commercial rental any copy" of a computer program, regardless of whether such copy is sold or rented previously. This right specific to computer programs contrasts with other types of literary works under Indian law, which provides a right "to issue copies of the work to the public" provided that the copy is "not already in circulation."[53] Accordingly, computer programs are exempt from what resembles the US first sale doctrine limitation on the distribution rights of the copyright owner with respect to other forms of literary works and other types of copyrighted works in India.

Currently, § 52(1) of the Indian Copyright Act sets forth several provisions specifically limiting the rights of copyright owners in relation to use of computer programs, making of back-up copies, interoperability between computer programs, and reverse engineering.[54] First, the "making of copies, or the adaptation, of a computer program" by the lawful possessor of the program is allowed "(i) in order to utilize the computer program for the purpose for which it was intended or (ii) to make back-up copies purely as a temporary protection against loss, destruction, or damage."[55] Second, "any act necessary to obtain information essential for assuring the interoperability . . . with other programs," provided that the information is not otherwise readily available, is also allowed under the Indian Copyright Act.[56] Finally, "observation, study, or test[ing] of the functioning of a computer program," in order to determine "the ideas and principle that underlie any elements of the program" while performing such acts as necessary for which the program was supplied, is also permitted.[57]

Japan

Japan has enacted laws in compliance with both the WCT and WPPT. In Japan, similar to the safe harbor provisions of the DMCA, specific statutory provisions have been enacted to limit liability of service providers for various online acts of their subscribers. For example, Internet service providers enjoy certain exemptions for various actions initiated by consumers, including transitory and incidental copying. Under the I.S.P. Liability Limitation Act (ISPLLA), an Internet service provider may be exempt from paying damages for claims for defamation, privacy violations, or *copyright infringement* unless it was technically possible for the service provider to prevent the dissemination of the contents at issue.[58] The ISPLLA does require service providers to disclose information regarding content provided when requested to do so by a claimant whose right is allegedly infringed by the content. Accordingly, various trade associations have prepared guidelines for such cases, including at least one guideline dealing with defamation/piracy-infringement claims and another

guideline for copyright infringement claims.[59]

Japanese law also protects technological safeguards and data-management rights from being tampered with or circumvented. Article 2(1)(x) of the Act to Prevent Unfair Competition[60] provides civil remedies for the selling, delivering, displaying, and exporting or importing of an apparatus that has the specific function of enabling access that is otherwise "restricted by a technological restrictive measure." Additionally, the Copyright Act was amended in 1999 to provide the same remedies for erasing or altering "rights-management information," which is defined as information concerning moral rights, copyright, or neighboring rights that is "recorded on a medium or transmitted by an electromagnetic method together with works performances, phonograms, or broadcasts or cable casts."[61]

Certain exemptions are also in place in Japan relating to private copying. Specifically, a work of authorship that is the subject matter of copyright may be reproduced by the user for the purpose of "using it personally or at his home or within a similarly limited circle . . .."[62] However, there are limits on this personal use exemption, including language that precludes reproduction "made by the use of an automatic reproduction machine . . . installed for use by the general public."[63] This provision also does not exempt reproduction by automatic machines used exclusively for reproducing documents and drawings.[64]

Taiwan

Taiwan has not separately signed either the WCT or WPPT. Under existing Taiwanese copyright law, authors have the exclusive right to reproduce their works and performers have the exclusive right to reproduce their performance.[65] However, Taiwanese copyright law provides a limitation on these rights in that these provisions do not apply to "temporary reproduction that is transient, incidental, an essential part of a technology process, and without independent economic significance, where solely for the purpose of lawful network relay transmission, or for lawful use of a work; provided, this *shall not apply to computer programs*."[66] (Emphasis added.) However, Article 22 later iterates that "'temporary reproduction . . . for the purpose of lawful network relay transmission includes technically unavoidable phenomena or machine occurring in network browsing, caching or other processes for enhancing transmission efficiency."[67] Taiwanese copyright law also provides the right to "radio or television broadcasting organization[s]" to "sound record or video record a work" for the purposes of public broadcasting given that the public broadcasting has been licensed by the rights holder or is otherwise authorized under the Act.[68] Further, the owner of a legal copy of a computer program may alter the program "where necessary for utilization on a machine used by such owner, or may reproduce the program as necessary for backup; provided, this is limited to the owner's personal use."[69]

Taiwanese copyright law also provides limited rights in electronic rights management information and technological protection measures in Article 80(bis) and Article 80(ter). "Electronic rights management information" made by a copyright owner "shall not be removed or altered" unless removal or alteration of electronic rights management information of the work is "unavoidable in the lawful exploitation of the work" or

removal or alteration is "technically necessary to conversion of a recording or transmission system."[70] The law also prohibits distribution, importation or possession with an intent to distribute, or public broadcast, performance of transmission of a work known to have had its electronic rights management "unlawfully removed or altered."[71]

Conclusion

Since 1998 digital technology has continued to grow exponentially in importance, complexity, and breadth. Very few locales on the planet have not been influenced by digital media and technology. Accordingly, in the time since the US passed the DMCA as the manner in which the United States governs copyright and issues relating to the facets enumerated in the DMCA, many other countries have amended or added to their body of law relating to digital media, technology, and related issues. After reviewing some of the larger players on the world economic and copyright stage, it appears many jurisdictions have enacted at least some provisions that appear similar in nature to aspects of the DMCA. However, whether it is because of differences in legal systems, governance, prioritization, and influence of intellectual property rights or merely cultural preference, Canada, China, the EU, India, Japan, and Taiwan all have enacted various levels of DMCA-type provisions, and no single level of protection appears uniform at this time.[72]

Notes

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[1] The text of the WCT is available at *http://www.wipo.int/treaties/en/ip/wct/trtdocs_wo033.html.* The text of the WPPT is available at *http://www.wipo.int/treaties/en/ip/wppt/trtdocs_wo034.html.*

[2] A listing of parties to the WIPO Copyright Treaty and their current status may be viewed at *http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=ALL&start_year=ANY&end_year=ANY&search_what=C&treaty_id=16.*

[3] For example, Article 11 of the WIPO Copyright Treaty provides the following broad guidance regarding obligations concerning technological measures:

> Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.

(The WIPO Performances and Phonograms Treaty contains a similar provision in Article 18.)

Similarly, Article 12 provides the following broad guidance regarding obligations concerning rights management information:

> Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this Treaty or the Berne Convention:
>
> (i) to remove or alter any electronic rights management information without authority;
>
> (ii) to distribute, import for distribution, broadcast or communicate to the public, without authority, works or copies of works knowing that electronic rights management information has been removed or altered without authority.

(The WIPO Performances and Phonograms Treaty contains a similar provision in Article 18.).

[4] The Digital Millennium Copyright Office Act of 1998, US Copyright Office Summary, Dec. 1998, p.1,

http://www.copyright.gov/legislation/dmca.pdf.
[5] Vessel Hull Design Protection relates to a *sui generis* provision outside the topical scope of this article and is merely mentioned to provide an accurate and complete description of the DMCA.
[6] C-61, 39th Canadian Parliament, Second Session.
[7] C-60, 38th Canadian Parliament, First Session.
[8] Michael Geist, "Conservatives Promise to Re-Introduce Canadian DMCA" (Oct. 7, 2008), at *http://www.michaelgeist.ca/content/view/3439/125/.*
[9] Nate Anderson, "'Canadian DMCA' brings 'balanced' copyright to Canada" (June 12, 2008).
[10] CDs, DVDs, and computer software are absent from this list, perhaps, intentionally as suggested by some.
[11] Nate Anderson, *supra* n.9.
[12] Radiocommunications Act, R.S.C. 1985, ch. R-2, §§ 9(1)(c)-9(1)(e), 10(2.1) to (2.5); *see also,* Paul Edward Geller & Melville B. Nimmer, International Copyright Law and Practice, § 8[1][c][iii] at p. CAN-88.
[13] *See id.*, ch. C-46, § 327.
[14] CA, § 30.8.
[15] CA, § 30.9.
[16] Int'l Copyright Law and Practice, § 8[2][d] at p. CAN-94.
[17] Copyright Law of the People's Republic of China, Article 3 (2001). ("For the purposes of this Law, the term 'works' includes works of literature, art, natural science, social science, engineering technology and the like which are expressed in the following: . . . (8) computer software . . . .").
[18] Interim Regulation on Administration of Software Products, Article 18 (1998).
[19] Copyright Law of 2001, Article 47.
[20] Order of the State Council of the People's Republic of China, No.339, Regulations on the Protection of Computer Software, Article 24 (effective Jan. 1, 2002), at *http://english.gov.cn/laws/2005-08/24/content_25701.htm.*
[21] Order of the State Council of the People's Republic of China, No.468, Ordinance on the Protection of the Right to Network Dissemination of Information, Article 4 (effective July 1, 2006), at *http://fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/AdministrativeRegulations/P020060713308299373030.pdf.*
[22] *See id.*
[23] Song Haiyan and Xu Yuezhu, "Computer Software Protection in China" (Mar. 2007), at *www.kingandwood.com.*
[24] *See id.*
[25] DS362: China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights, World Trade Organization, Jan. 26, 2009, p.134.
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] While each member state uniquely implements these directives, each member state's national formulation of these directives must be consistent with the provisions of these directives.
[30] Directive 91/250/EEC, O.J. 1991 No. L 122. (This Directive required member states to comply with its terms by Jan. 1, 1993.).
[31] *See id.*, Article 4.
[32] Article 4(a).
[33] Article 4(b).
[34] Article 4(c).
[35] Article 5(1).
[36] Article 5(2).
[37] Article 5(3). (The exempted acts must, however, be done "while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.").
[38] Directive 2001/29/EC, O.J. 2001 No. L 167. (Directive 2001/29/EC is also commonly known as EU

Copyright Directive (EUCD) or Information Society Directive (Infosoc).).
[39] *See id.*, Article 5.
[40] *See*, Int'l Copyright Law and Practice, The European Community and Copyright, § 4[2][g][i], at p. EC-97.
[41] Directive 2001/29/EC, Article 5 (3)(a).
[42] Article 5 (3)(e).
[43] Article 5 (3)(l).
[44] Article 5 (3)(o).
[45] Article 6.
[46] Article 7.
[47] Article 6 (3).
[48] Article 6 (1).
[49] Article 13(1).
[50] These countries included at least Belgium, Finland, France, Great Britain, Spain, and Sweden.
[51] Ayan Roy Chowdhury, "The Future of Copyright in India," *J. of Intell. Prop. L. & Practice*, vol. 3, no. 2 (2008).
[52] *See,* Int'l Copyright Law and Practice, India, § 8[1][b][ii], at p. IND-42.
[53] *See id.*
[54] *See id.* at p. IND-48.
[55] Section 52(1), Clause (aa).
[56] Section 52(1), Clause (ab).
[57] Section 52(1), Clause (ac).
[58] *See,* International Copyright Law and Practice, Japan, § 8[1][c][iii], at p. JAP-51.
[59] *See id*.
[60] Law No. 47, 1993.
[61] Copyright Act, Article 113(3); s*ee also,* Int'l Copyright Law and Practice, Japan, § 8[1][c][iii], at p. JAP-52.
[62] Japan Copyright Law, Article 30(1).
[63] *See id.*
[64] *See id.*
[65] Taiwan Copyright Act, Article 22.
[66] *Id.*
[67] *Id.*
[68] *See id.*, Article 56.
[69] *See id.*, Article 59.
[70] *See id.,* Article 80bis.
[71] *See id.*
[72] This should not be construed to mean or imply that other jurisdictions have not enacted DMCA-type laws and/or regulations. Indeed, other jurisdictions may have enacted DMCA-type laws and/or regulations. However, this article is based only on the laws and regulations of those countries specifically identified.