

**TECHNOLOGY, EDUCATION, AND
COPYRIGHT HARMONIZATION
ACT OF 2002:
A Legislative History**

Edited by

William H. Manz

*Assistant Law Librarian and
Director of Student Publications
St. John's University School of Law*

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INTRODUCTION

The Technology, Education, and Copyright Harmonization (TEACH) Act is intended to make it easier to use copyrighted works in distance education. Unlike the former law, which limited transmissions to classroom settings, the new enactment permits educators to send content to students anywhere. Accordingly, it revises Section 110(2) of the Copyright Act by extending the exemption from infringement liability for instructional broadcasting to include digital distance learning or distance education.

Under the new law, educators do not have to seek permission of copyright holders to use materials, and will not have to pay any royalties. The Act permits, under specified conditions, the performance and display of reasonable and limited portions of any copyrighted work in amounts comparable to what is typically displayed during live classroom sessions. It also allows the display and performance of all types of materials, and explicitly includes performances of non-dramatic literary and musical works. However, the materials must be presented as an integral part of a course of instruction and not for entertainment purposes. In addition, any copyrighted materials utilized in distance education must be transmitted over secure lines. These transmissions also must be limited to enrolled students, and technical controls must be utilized to limit the dissemination of the work.

Commercially-prepared educational materials are protected by excluding from the exemption any works that are produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or performances. Also excluded are displays that are given by means of a copy or phonorecord that was not lawfully made and acquired and where the transmitting government body or accredited nonprofit educational institution knew or had reasons to believe that the copy was not lawfully made and acquired.

The number of copies of copyrighted works must be limited. In addition, the Act does not broadly authorize the conversion of print or other analog versions of works into digital formats, allowing the digitizing of analog works only under specified circumstances. It does exempt

governmental bodies and accredited nonprofit educational institutions from liability for infringement resulting from the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material. It also extends the present ephemeral recording exemption, under specified conditions, to copies or phonorecords embodying a performance or display in digital and analog form for use in making transmissions authorized by the Act.

In order to benefit from the provision of the Act, the governmental body or accredited nonprofit education institution must “institute policies regarding copyright,” although it does not specify what such a policy might contain. It also requires that students be provided with informational materials regarding copyright, and that they be notified that the presented materials may be subject to copyright protection.

*William H. Manz
Jamaica, New York
January 2004*

LEGISLATIVE CHRONOLOGY

Mar. 7, 2001

S. 487 introduced by Sen. Hatch.

Mar. 13, 2001

Hearings held by Senate Judiciary Committee

June 5, 2001

Reported with an amendment by Senate Judiciary Committee.

June 7, 2001

Passed by Senate.

June 8, 2001

Referred to House Judiciary Committee.

June 18, 2002

Referred to House Subcommittee on Courts, the Internet and Intellectual Property.

July 27, 2002

Hearings held by House.

Sept. 25, 2002

Reported by House Committee on the Judiciary.

Sept. 26, 2002

Incorporated into Conference Report on H.R. 2215, 21st Century, Department of Justice Appropriations Authorization Act; Conference Report agreed to by House (400-4).

Oct. 3, 2002

Conference Report agreed to unanimously by Senate.

Oct. 23, 2002

Presented to President.

Nov. 2, 2002

Signed by President.

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- Mendes, Philip. *On-line Delivery of Education: Copyright Issues in Universities*, 11 JOURNAL OF LAW AND INFORMATION SCIENCE 196 (2000/2001).

Reports

- Public Comments*, REPORT ON COPYRIGHT AND DIGITAL DISTANCE EDUCATION, vol. 2 (May 1999).
- Hearing Testimony*, REPORT ON COPYRIGHT AND DIGITAL DISTANCE EDUCATION, vol. 3 (May 1999).

TABLE OF DOCUMENTS

Part I – The Law

Doc. No. 1 Technology, Education, and Copyright Harmonization Act of 2001, Pub. L. 107-273, Title III, Subtitle C.

Part II – Reports on the Law

Doc. No. 2 Technology, Education and Copyright Harmonization Act of 2001, Senate Report No. 107-31.

Doc. No. 3 Technology, Education, and Copyright Harmonization Act of 2001, House Report No. 107-687.

Part III – Hearings on the Law

Doc. No. 4 *Technology, Education and Copyright Harmonization Act of 2001*, hearings before the House Subcommittee on Courts, the Internet, and Intellectual Property, 107th Cong. (June 27, 2001).

Doc. No. 5 *Promoting Technology and Education: Turbo-Charging the School Buses on the Information Highway*, hearing before the Senate Committee on the Judiciary, 107th Cong. (Mar. 13, 2001).

Part IV – Congressional Record

- Doc. No. 6** Remarks of Sen. Hatch, 147 Cong. Rec. S2007 (daily ed. Mar. 7, 2001).
- Doc. No. 7** Section-By-Section Analysis of S. 487, Cong. Rec. S2009 (daily ed. Mar. 9, 2001).
- Doc. No. 8** Reid Amendments Nos. 793, 794 to S. 487, 147 Cong. Rec. S5987 (daily ed. June 7, 2001).
- Doc. No. 9** Consideration of S. 487, 147 Cong. Rec. S5988 (daily ed. June 7, 2001).
- Doc. No. 10** Remarks of Rep. Boucher, 147 Cong. Rec. E1076 (June 12, 2001).

Part V – Bill Versions

- Doc. No. 11** H.R. 2215, Title III, Subtitle C, Technology, Education, and Copyright Harmonization Act of 2002.
- Doc. No. 12** S. 487, Technology, Education, and Copyright Harmonization Act of 2001 (as introduced in Senate).
- Doc. No. 13** S. 487, Technology, Education, and Copyright Harmonization Act of 2001 (as reported in Senate).
- Doc. No. 14** S. 487, Technology, Education, and Copyright Harmonization Act of 2001 (as passed by Senate).
- Doc. No. 15** S. 487, Technology, Education, and Copyright Harmonization Act of 2001 (as referred to House Committee).
- Doc. No. 16** S. 487, Technology, Education, and Copyright Harmonization Act of 2001 (as reported in House).

Part VI – Related Bill

- Doc. No. 17** H.R. 2100, Twenty-first Century Distance Learning Enhancement Act (as introduced).

Part VII – Related Hearings

Doc. No. 18 *The Copyright Office Report on Copyright and Digital Distance Education*, hearing before the Senate Committee on the Judiciary, United States Senate, 106th Cong. (May 25, 1999).

Doc. No. 19 *Intellectual Property Security Registration and the Report of the U.S. Copyright Office on Copyright and Digital Distance Education*, hearing before the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, 106th Cong. (June 24, 1999).

Part VIII – Register’s Report

Doc. No. 20 Library of Congress, Copyright Office, *Report on Copyright and Digital Distance Education* (1999). Vol. 1.

