

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

(Added Pub. L. 105-304, title I, §103(a), Oct. 28, 1998, 112 Stat. 2874.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201, 1202 of this title.

§ 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, OR EDUCATIONAL INSTITUTION.—Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.

(c) STATUTE OF LIMITATIONS.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within 5 years after the cause of action arose.

(Added Pub. L. 105-304, title I, §103(a), Oct. 28, 1998, 112 Stat. 2876.)

§ 1205. Savings clause

Nothing in this chapter abrogates, diminishes, or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual's use of the Internet.

(Added Pub. L. 105-304, title I, §103(a), Oct. 28, 1998, 112 Stat. 2876.)

CHAPTER 13—PROTECTION OF ORIGINAL DESIGNS

Sec. 1301.	Designs protected.
1302.	Designs not subject to protection.
1303.	Revisions, adaptations, and rearrangements.
1304.	Commencement of protection.
1305.	Term of protection.
1306.	Design notice.
1307.	Effect of omission of notice.
1308.	Exclusive rights.
1309.	Infringement.
1310.	Application for registration.
1311.	Benefit of earlier filing date in foreign country.
1312.	Oaths and acknowledgments.
1313.	Examination of application and issue or refusal of registration.
1314.	Certification of registration.
1315.	Publication of announcements and indexes.
1316.	Fees.
1317.	Regulations.
1318.	Copies of records.
1319.	Correction of errors in certificates.
1320.	Ownership and transfer.
1321.	Remedy for infringement.
1322.	Injunctions.
1323.	Recovery for infringement.
1324.	Power of court over registration.
1325.	Liability for action on registration fraudulently obtained.
1326.	Penalty for false marking.
1327.	Penalty for false representation.
1328.	Enforcement by Treasury and Postal Service.
1329.	Relation to design patent law.
1330.	Common law and other rights unaffected.
1331.	Administrator; Office of the Administrator.
1332.	No retroactive effect.

TERMINATION OF CHAPTER

For termination of chapter by section 505 of Pub. L. 105-304, see Effective and Termination Dates note set out under section 1301 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 28 sections 1338, 1498.

§ 1301. Designs protected

(a) DESIGNS PROTECTED.—

(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public