



POSITION STATEMENT

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) ENCRYPTION RESEARCH PROVISIONS

*Adopted by the IEEE-USA
Board of Directors, 11 Nov. 2011*

IEEE-USA asks the U.S. Government to provide sanctions against those who misrepresent the Digital Millennium Copyright Act (DMCA) in order to deter legitimate research in encryption and security.

Researchers whose work falls within the exemption provided by Congress for encryption research (see 17 U.S.C. Sec. 1201(g)) have been threatened with possible litigation under the DMCA, causing great concern for those researchers who want to publish their results in academic conferences and journals and similar forums, including those sponsored by the IEEE. IEEE-USA strongly condemns those who threaten legitimate research and its publication, when Congress has stated its intention to protect such research and publication from litigation. This safe harbor should be available for all such research and publication, regardless of whether performed by an academic or a nonacademic, and regardless of whether the research is conducted by an individual, or on behalf of an organization. IEEE-USA believes that there must be appropriate sanctions against those who misrepresent the DMCA in an effort to deter legitimate research.

IEEE-USA notes that the DMCA provision on encryption research may not fully protect legitimate encryption research and publication, as was Congress' intent. IEEE-USA calls on Congress to amend the encryption research exemption so that it clearly includes all legitimate research done by any entity or person (academic or otherwise), and the publication of that research, and is applicable to all types of copyright protection and management systems. Further, until that amendment is passed, IEEE-USA urges the courts to interpret the encryption research exemption broadly, to protect legitimate encryption as was Congress' intent.

This statement was developed by the IEEE-USA Intellectual Property Policy Committee and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA advances the public good and promotes the careers and public policy interest of more than 210,000 engineers, scientists and allied professionals who are U.S. members of IEEE. The positions taken by IEEE-USA do not necessarily reflect the views of IEEE or its other organizational units.