POSITION STATEMENT

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) ENCRYPTION RESEARCH PROVISIONS

Adopted by the IEEE-USA
Board of Directors, 21 Nov. 2014

IEEE-USA asks the U.S. Government to provide sanctions against those who misrepresent the *Digital Millennium Copyright Act* (DMCA) 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 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 non-academic, 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 t 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 Committee, and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA serves the public good, and promotes the careers and public policy interests of more than 200,000 engineering, computing and technology professionals who are U.S. members of IEEE. With more than 400,000 members in over 160 countries, IEEE is the world's largest technical professional society. Positions taken by IEEE-USA do not necessarily reflect the views of IEEE, or its other organizational units.