

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, EDUCATIONAL INSTITUTIONS, OR PUBLIC BROADCASTING ENTITIES.—

(i) DEFINITION.—In this subparagraph, the term “public broadcasting entity” has the meaning given such term under section 118(f).

(ii) IN GENERAL.—In the case of a nonprofit library, archives, educational institution, or public broadcasting entity, the court shall remit damages in any case in which the library, archives, educational institution, or public broadcasting entity sustains the burden of proving, and the court finds, that the library, archives, educational institution, or public broadcasting entity 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; amended Pub. L. 106-113, div. B, §1000(a)(9) [title V, §5004(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-593; Pub. L. 111-295, §6(f)(3), Dec. 9, 2010, 124 Stat. 3181.)

AMENDMENTS

2010—Subsec. (c)(5)(B)(i). Pub. L. 111-295 substituted “118(f)” for “118(g)”.

1999—Subsec. (c)(5)(B). Pub. L. 106-113 amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “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.”

**§ 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, EDUCATIONAL INSTITUTION, OR PUBLIC BROADCASTING ENTITY.—Subsection (a) shall not apply to a nonprofit library, archives, educational institution, or public broadcasting entity (as defined under section 118(f)).

(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; amended Pub. L. 106-113, div. B, §1000(a)(9) [title V, §5004(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-593; Pub. L. 111-295, §6(f)(3), Dec. 9, 2010, 124 Stat. 3181.)

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-295 substituted “118(f)” for “118(g)”.

1999—Subsec. (b). Pub. L. 106-113 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.”

**§ 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**

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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.

**§ 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