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Digital Regulation and the Impact on Education

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NEWS

DIGITAL REGULATION AND THE IMPACT ON EDUCATION

By Valerie Sarigumba

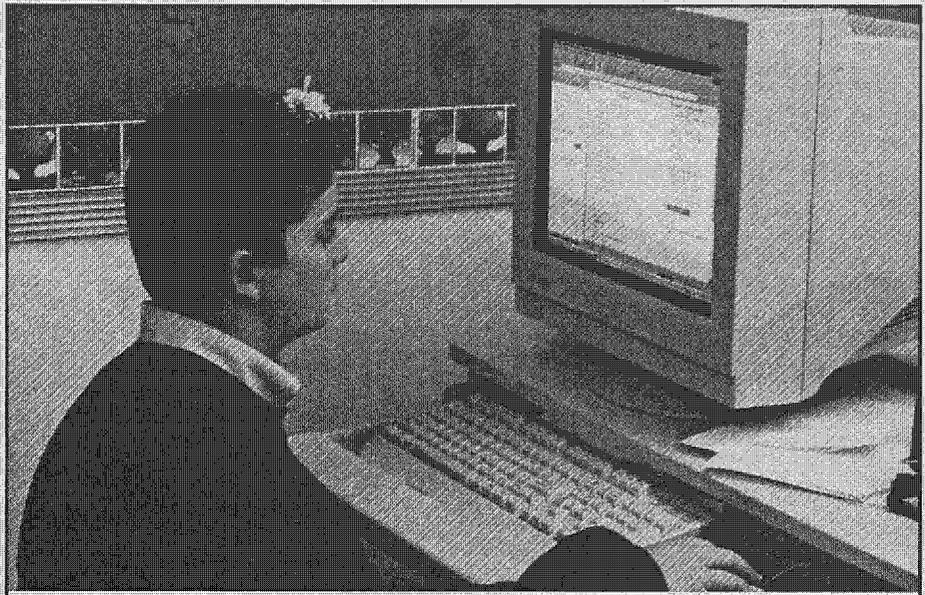
While digital copyright opponents assert that laws enforcing copyright protections restrict education, other legislative action indicates that education is not the proper vehicle for dismantling digital copyright protections.

In July 2002, the American Civil Liberties Union (ACLU), on behalf of David Edelman, sued N2H2, an Internet filtering company, as a countermeasure to prevent N2H2 from suing Edelman for circumventing its encryption software. Edelman wants to circumvent N2H2's encryption to see its list of blocked web sites. The Digital Millennium Copyright Act (DMCA), however, states that it is illegal to circumvent digital protections on software. Pub. L. No. 106-554, 114 Stat. 2763, 2763A-335 (2000).

“The battleground is not education. It really has to do with protecting works from Internet piracy.”

— John Genga, intellectual property attorney from Paul, Hastings, Janofsky & Walker

Edelman's purpose for circumventing the encryption is to conduct research for improving filters to allow better access to educational sites while still blocking pornographic sites. Edelman's suit asserts that the DMCA is hampering educational pursuits, but current legislation and court



Young student using the Internet.

cases question whether education is really the proper arena to raise the digital copyright dispute.

In early October 2002, the Supreme Court heard the arguments for *Eldred v. Ashcroft*, which challenges the constitutionality of the Sonny Bono Copyright Term Extension Act. *Eldred v. Ashcroft*, 534 U.S. 1160 (2002); Pub. L. No. 105-298, 112 Stat. 2827 (1998). The act would add twenty years of copyright protection for many works. The lead plaintiff, Eric Eldred, argued that such works no longer have use to their dead authors, and library groups and scholars asserted that the act deprives the public's access to literature, music, and films. The Court, however, did not see any "empirical evidence" that the act substantially limited the availability of works to the public. It also questioned the incentive to extend the copyright protection.

Despite arguments such as those presented in *Eldred*, Congress recently loosened

copyright protections to aid in online education. On October 3, 2002, the Senate approved a bill allowing online-education instructors to use various artistic works on course websites without obtaining permission by the copyright owners. Currently, traditional classrooms are allowed broad use of copyrighted works without permission, but online instructors may only use non-dramatic works. The bill is only awaiting a signature from the President.

Libraries may be especially sensitive to access restrictions following a recent attempt by Congress to give libraries financial incentive for utilizing Internet filtering software to prevent users from downloading sexually explicit websites. To promote filtering use, Congress enacted the Children's Internet Protection Act (CIPA), which required libraries to install Internet filters in order to receive significant government subsidies.

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