

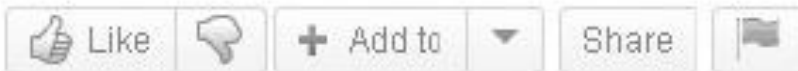
International Copyright in a Digital Environment

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Sorry about that.



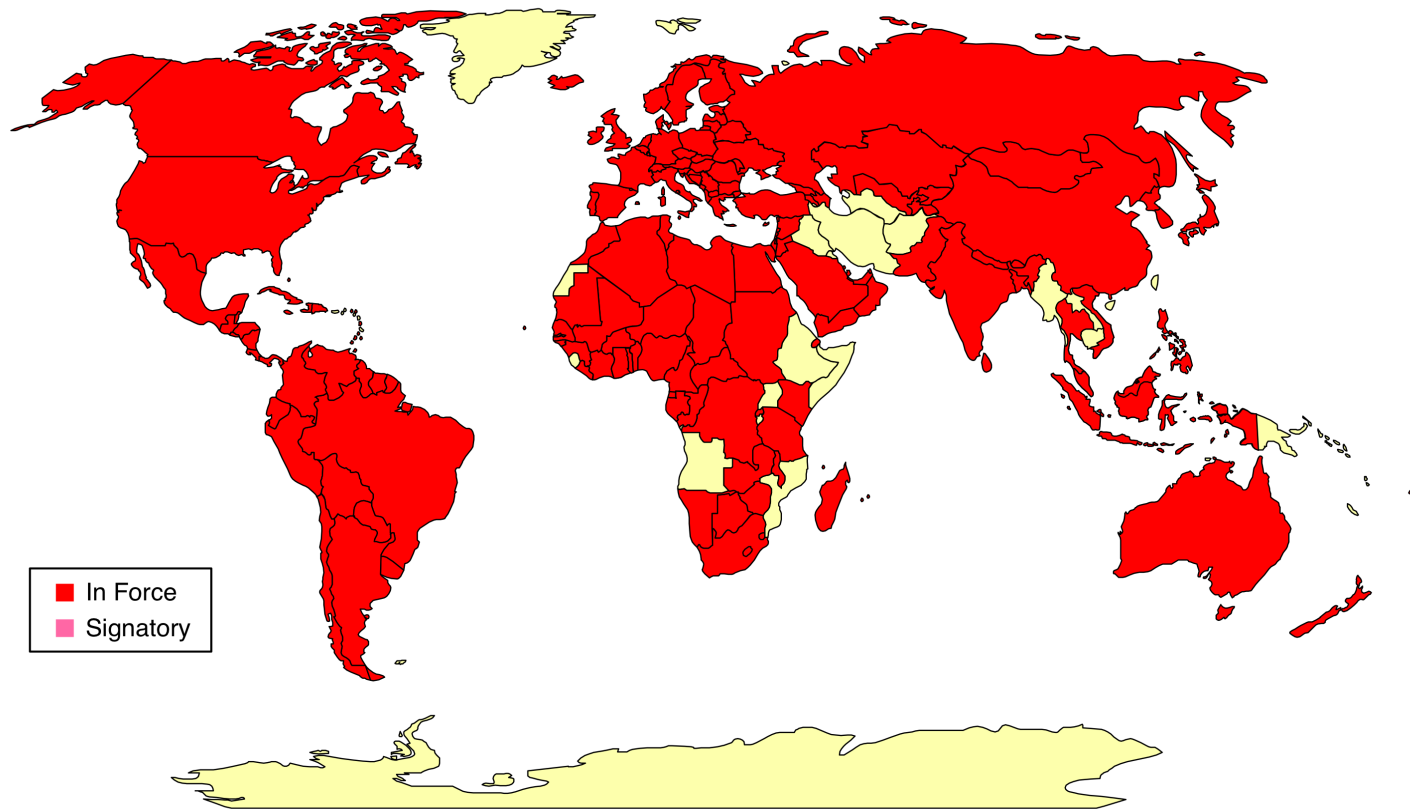
Why international copyright?

- Ensure copyright protection for foreigners
- Developed countries vs. developing countries
- Particularly an issue in our Internet-saturated world

Associated Problems

- Different national copyright philosophies
- “International law” impossible, but rather enacted via treaties
- Enforcement

Berne Convention (1886)



Berne Convention Membership, February 2010

Berne Convention (1886)

- Only for printed material
- 3 basic rights:
 - national treatment
 - independence of protection
 - automatic protection
- “moral rights” added later
- Minimum protection established (50 yrs after death)
- However, no enforcement mechanism

TRIPS (1994)

- Agreement on Trade Related Aspects of Intellectual Property Rights
- Administered by the WTO
- No “moral rights,” but computer programs and databases are protected
- Has means of enforcement

WIPO “Internet Treaties” (1996)

- WIPO = World Intellectual Property Organization
- WIPO Copyright Treaty & WIPO Performances and Phonographs Treaty
- Reproduction rights extended to digital format
- DMCA was the US implementation of this treaty

WIPO “Internet Treaties” (1996)

- “Contracting Parties shall provide **adequate** legal protection and **effective** legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or **permitted by law.**”

“TRIPS-Plus” : ACTA

- Anti-Counterfeiting Trade Agreement
- Closed-door negotiations
- Less participants than WIPO treaties – for the most part developed nations
- More stringent anti-circumvention

ACTA Anti-Circumvention

- Defines “adequate legal protection and effective legal remedies,” forbidding
 - “unauthorized circumvention of an effective technological measure carried out knowingly or with reasonable grounds to know”
 - “the offering to the public by marketing of a device or product, including computer programs, or a service, as a means of circumventing an effective technological measure”

What about ISPs?

- “...adopting or maintaining a regime providing for limitations on the liability of, or on the remedies available against, online service providers while preserving the legitimate interests of right holders.”

ACTA concerns

- India, Brazil, and China & other developing nations
- Exporting US law in the form of anti-circumvention without the “fair use” practice
- Many countries have to change their laws
- In the US, it's an executive agreement, not a treaty, bypassing the legislative system

The Future

- What good are international copyright agreements with a limited number of participants?
- Effectiveness of this measure?