

other activities that might otherwise be infringing.") The bill amends the "savings clause" to make clear that it is not a violation of section 1201 to circumvent a technological measure in connection with gaining access to or using a work if the circumvention does not result in an infringement of the copyright in the work. In short, if a consumer may make a fair use of a copyrighted work, he may gain access to it and then make use of it without liability under section 1201. At the same time, if his or her conduct does not constitute fair use under section 107, liability may attach under section 1201.

In this connection, I think it important to stress that, when the DMCA was being debated equipment manufacturers unsuccessfully sought to clarify the savings clause in section 1201. Since enactment of the DMCA, these same manufacturers have had to build business plans that incorporate copy protection technologies into their digital product offerings in order to ensure that content will be made available to consumers in digital formats. At the same time, these manufacturers have worked to ensure that those technologies are used in ways that are consistent with consumers' customary recording and viewing practices. I recognize that because the determination of whether or not a particular use is considered a "fair use" depends on a highly fact specific inquiry, it is not an easy concept to translate into a technological implementation. Our bill is not intended to encourage consumers to disable copy protection systems in order to gain increased access to protected works where the technology has been implemented in a manner that seeks to accommodate the consumer's fair use expectations. Instead, this proposal is in pursuance of a larger objective of ensuring that existing copy protection measures are implemented in ways that respect consumers' customary practices and ensuring that, as future technologies are developed, they incorporate means by which fair use of content can be made. As Congress demonstrated in developing section 1201(k) of the DMCA, there are ways to balance legislatively the interests of content owners and consumers when technological solutions that respect fair use practices can be agreed upon by all parties.

In addition to restrictions on their fair use rights, consumers face a new problem as record companies increasingly introduce into the market non-standard "copy-protected compact discs." As widely reported in the press, consumers have found that these ordinary-looking CDs do not play in some standard consumer electronics and computer products and that they cannot be copied on computer hard drives or in CD recorders. Without question, record companies should have the freedom to innovate, but they also have the responsibility to provide adequate notice to consumers about the "recordability" and "playability" of these discs. They have not done so. For that reason, I believe it is appropriate for Congress to now step in. Our bill will ensure that non-standard discs are properly labeled to give consumers adequate notice of all dysfunctions.

In this connection, I think it is important to note that the conferees to the DMCA expected all affected industries to work together in developing measures to protect copyrighted works. As the conferees pointed out, "[o]ne of the benefits of such consultation is to allow

testing of proposed technologies to determine whether there are adverse effects on the ordinary performance of playback and display equipment in the marketplace, and to take steps to eliminate or substantially mitigate those effects before technologies are introduced." That process does not appear to have been employed with regard to the new unilaterally developed methods being used to protect compact discs.

In closing, I think it important to stress that, for over 150 years, the fair use doctrine has helped stimulate broad advances in scientific inquiry and in education, and has advanced broad societal goals in many other ways. We need to return to first principles. We need to achieve the balance that should be at the heart of our efforts to promote the interests of copyright owners while respecting the rights of information consumers. The DMCRA of 2003 will restore that balance.

We urge our colleagues to join us as co-sponsors of this important legislation.

TRIBUTE TO MS. KATHERINE
DUNHAM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 2003

Mr. CONYERS. Mr. Speaker, today, I rise to commemorate Katherine Dunham for her extraordinary contributions to dance, culture, history and the world. Ms. Dunham has been called the "Matriarch of black dance." Her unprecedented blend of cultural anthropology with the artistic genre of dance in the early 1930's, produced groundbreaking forms of movement, and in the United States, established black dance as an art form in its own right. Global awareness of folk dance in Haiti can be chiefly attributed to the work of Katherine Dunham.

It is important to share the history of this amazing woman. After various stays in Jamaica, Martinique, and Trinidad, Ms. Dunham arrived in Haiti in 1935. She chose to visit the Caribbean in order to study the intensity, depth and the African influence of the Caribbean dance culture. The Caribbean nations of Haiti and Jamaica provided Dunham with new insights, as the villagers began to trust her and invited her to join in some of their most sacred dance rituals. She would ultimately claim Haiti as her second home and even adopt their Vodum (or Voodoo) religion. She later chronicled much of her time spent in Haiti in a book entitled, *Island Possessed*. Shortly after leaving Haiti she completed a thesis on the dances of Haiti, entitled *Las Danzi de Haiti*. In 1983, the Center for Afro-American Studies at UCLA published a revised version, incorporating a long campaign of subsequent research. It was through her dance compositions that Ms. Dunham introduced the Haitian based vocabulary of movement to the world. This form of dance later became known as the Dunham technique.

Ms. Dunham's formal career began in 1931, when the "First Negro Dance Recital in America" was presented in New York. At the time she was a 21 year old University of Chicago student who also served as the group's choreographer, teacher and chief dancer. The multitude of roles that she played in this initial

endeavor were indicative of her great career which would span the next 50 years. In 1935, Ms. Dunham was given the opportunity to study both academic and practical aspects of dance when she received a Rosenwald fellowship which enabled her to undertake an anthropological study of dance in the Caribbean. As a result of her research, Ms. Dunham determined that African influences dominated three aspects of Black folk dance. These include: the incorporation of African religious dance into new ritual behaviors; the secularization of the African religious dance; and the interaction of African secular dance with European secular dance.

Upon returning to the United States, Ms. Dunham reconstituted her dance group focusing primarily on her Caribbean experiences, particularly in Haiti. She choreographed and produced numerous productions, *Pins and Needles*, *Tropics*, *Le Jazz Hot—From Haiti to Harlem*, *Cabin in the Sky*, *Tropical Revue*, *Carib Song*, *Bal Begre* which played in various locations, including New York and Los Angeles. Ms. Dunham's company also appeared in the film *Stormy Weather* with Lena Horne and Bill Robinson. Specifically, the dance troupe is featured in fog-drenched "Stormy Weather" dream sequence.

Later, Ms. Dunham returned to the international stage by opening Caribbean Rhapsody, *Tropics*, *Son*, *Chorus*, *Nanigo*, *Bahian*, *Shango*, *LAG Ya'*, *Rites of de Passage*, *Flaming Youth* and *Blues in Europe*. Ms. Dunham's success in Europe led to considerable imitation of her work in European revues. Her company also toured South America, Africa and Mexico. Ms. Dunham's dance troupe was so successful that it became the most widely recognized American dance company in the world. This distinction was later inherited by the Alvin Ailey American Dance Theater in 1970's.

The Dunham company made its last appearance in New York in 1962. It performed a production entitled *Bamboche!* which featured a contingent from the Royal Troupe of Morocco. In 1963 in *Aida*, Dunham continued to secure her place in artistic history by becoming the first African-American to choreograph for the Metropolitan Opera. Dunham first appeared in films in 1940 in *Carnival of Rhythm*. Her other film credits include *Cabin in the Sky*, *Star Spangled Rhythm*, *Casbah*, and *Pardon My Sarong*.

In 1945, the Katherine Dunham School of Arts and Research opened and was comprised of a Department of Theater, Cultural Studies and the Institute for Caribbean research. It offered two, three and five year courses leading to professional, teaching and research certificates. The faculty numbered thirty, and the school's curriculum included classes such as dance notation ballet, modern and primitive techniques, psychology and philosophy. It also offered courses in acting, music, visual design, history and languages. During the 1940's and 50's, Dunham's School of Dance became the premier training facility for African American dancers by providing instruction in dance described as "arresting," and "highly theatrical." The student body was interracial and numbered approximately four hundred. The cost to run this school was enormous and absorbed most, if not all of profits earned by Ms. Dunham. However, during its tenure some of its more famous students included Marlon Brando, James Dean and Shelley Winters.

In 1967, Miss Dunham joined the faculty of Southern Illinois University in Edwardsville, to create a performing arts training center and dance anthropology program. In 1969, Miss Dunham created the Katherine Dunham Center for the Arts and Humanities, a community-based arts education program in East St. Louis. The center provided East St. Louis residents with the opportunity to witness and participate in fine, performing, and cultural arts.

Further, The Katherine Dunham Dynamic Museum is also located at Southern University in St. Louis. This landmark building appears on the Illinois Historic Register, and houses Miss Dunham's superb collection of African, West African, and South American art. It is also located in the Pennsylvania Avenue Historic District which is registered with the National Trust for Historic Preservation. The museum houses an outstanding collection of symbolic and functional art, including more than 250 African and Caribbean art objects from more than 50 countries. Tapestries, paintings, sculpture, musical instruments and ceremonial costumes from these and other areas of the world celebrate the human spirit. The museum also displays costumes, photographs, programs, letters, awards and mementos from Miss Dunham's career as a dancer, choreographer, teacher, writer and dance company owner.

Additional accolades attributed to Ms. Dunham include advisor on the First World Festival of Negro Arts, which was the subject of a television special entitled, "Divine Drumbeats: Katherine Dunham and Her People." In addition, she received the Kennedy Center Honors Award in 1983, and has been inducted into the Black Filmmakers Hall of Fame. Dunham has also been given a star on the St. Louis Walk of Fame for the field of Acting and Entertainment.

On January 7th, when the 108th Congress convenes, I will introduce this letter into the CONGRESSIONAL RECORD, adding this commendation to the tidal wave of many others. Thank you Katherine Dunham for your wonderful and marvelous contributions to the world.

COMMEMORATING THE PROSPECT
HILL FLAG RAISING

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to commemorate a moment of tremendous historical significance to our great country. January 1, 2003, marks the 227th anniversary of the raising on Prospect Hill, Somerville (then in Charlestown) the first flag of the United American Colonies. It is also the 100th anniversary of the building of the monument on Prospect Hill to recognize this event.

On January 1, 1776, General George Washington authorized that the Grand Union Flag be flown to celebrate the formation of the Continental Army. Thus, the Grand Union Flag, also known as the Great Union Flag, the Continental Union Flag and the Congress Flag, was raised at the fort sited on Prospect Hill. The brigade of Continental troops commanded by the legendary General Nathaniel Greene stationed at Prospect Hill produced a rousing

cry and fired a salute of thirteen guns as the flag proudly flew on that cold winter's morning. Washington himself fondly recalled the scene, writing in a letter to his friend Colonel Joseph Reed, "we hoisted the Union Flag in compliment to the United Colonies."

Our first flag itself bears only a similarity to our current flag, although, surprisingly, it bears a strong resemblance to the flag flown during the 18th century by the East India Company. The Grand Union Flag was an alteration of the British meteor flag. It featured thirteen alternating red and white stripes to signify the thirteen American colonies. A contemporary British Union flag—the red cross of St. George and the White cross of St. Andrew on a blue background—formed its canton. It was felt that this combination aptly reflected the unity the colonists felt in their struggle and the loyalty many still felt to England. While the Continental Congress never passed a resolution recognizing the Grand Union Flag as the official American flag, it was used until mid-1777 by the Continental Army and is considered the first flag of the United States. I am proud that it was first raised on Prospect Hill, Somerville, in what is now the 8th Congressional District of Massachusetts.

COMMENDING TWO NEWLY NAMED
RHODES SCHOLARS FROM KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 2003

Mr. MOORE. Mr. Speaker, I am pleased to report that two Rhodes Scholars from Kansas were named last week. I include in the Record for the House's review a wire story from the Associated Press concerning these two exemplary young Kansans, Robert Chamberlain of Topeka, and Ben Champion of Olathe, but particularly want to take note of Ben Champion, a constituent who interned in my Overland Park and Washington, D.C., congressional offices last summer. I also include a recent story from The Olathe News concerning Ben.

Ben Champion, who is hoping to pursue a career in politics and public policy, is majoring in chemistry, natural resources and environmental sciences at Kansas State University. His goal is to bridge the gap between the sciences and the political arena by first specializing in the sciences, especially chemistry, and subsequently by working in the policy arena to develop and implement sound environmental policy. My constituents in Kansas' Third District were fortunate to have him serving them in their congressional offices last summer, and I join with our staff in congratulating Ben and wishing him well on this exciting new challenge.

KANSAS STUDENT NAMED RHODES SCHOLAR

(By The Associated Press)

Two young men from Kansas, one a University of Kansas graduate now in the Army, and the other a senior at Kansas State University, were named Saturday as Rhodes Scholars for 2003.

They are Robert M. Chamberlain of Topeka, who earned a political science degree from Kansas in May, and Ben Champion of Olathe, who is majoring in chemistry, natural resources and environmental sciences at Kansas State.

The prestigious scholarships provide more than \$50,000 for two years of graduate study at Oxford University in England. They were established in 1903 by British philanthropist Cecil Rhodes, and 32 scholarships are awarded every year to students from the United States.

Chamberlain, a second lieutenant in the U.S. Army, is a field artillery officer with the 101st Airborne Division at Fort Sill, Okla., until April 2003, when he transfers to Fort Campbell, Ky.

A finalist for the scholarship a year ago, he is the son of Michael and Judy Chamberlain of Topeka and a graduate of Washburn Rural High School. He plans a public service career in international law.

Chamberlain said his selection for the scholarship was "still sinking in."

"It's such an honor to be selected from such an outstanding group of people," he said.

Chamberlain is the 24th University of Kansas student, and the first since 1994, to win a Rhodes scholarship. Kansas State has had seven Rhodes scholars since 1986.

Champion is a 1998 graduate of Olathe South High School. He is the son of Mike and Paula Champion of Olathe.

[From the Olathe News]

SOUTH GRAD IS RHODES SCHOLAR

(By Kevin Selders)

Ben Champion, a 1998 graduate of Olathe South High School, discovered something Saturday that changed his life.

Champion, who is graduating Saturday from Kansas State University with a degree in chemistry and environmental science, has been chosen as a Rhodes Scholar. He is one of two recipients from Kansas of the two-year, \$50,000 scholarship to University of Oxford in England. "I really don't know what to think about it yet," he said. "It's still sinking in." The Rhodes Scholarships, the oldest international fellowships, were initiated in 1902 after the death of Cecil Rhodes. They allow students from many countries around the world to attend the University of Oxford.

American Rhodes Scholars are selected through a decentralized process by which regional selection committees choose 32 scholars each year from among those nominated by selection committees in each state. Applicants from more than 300 American colleges and universities have been selected as Rhodes Scholars.

The other recipient from Kansas, Robert Chamberlain of Topeka, earned a political science degree from the University of Kansas in May, and is now a second lieutenant in the U.S. Army. Scholarships also were awarded to students from other countries, bringing the total number of scholarships awarded this year to about 95.

Champion, who plans to study renewable energy technologies at Oxford, said he's excited about attending the university, which is known for having the largest chemistry department in the world. "I'm really looking forward to studying at Oxford," he said. "It's going to be a good fit for me." He said that after his time at Oxford, he'd like to conduct research and get into the political process and advise on environmental policy issues.

Rhodes Scholars are selected for two years of study at Oxford, with the possibility of renewal for a third year. All educational costs, such as enrollment, tuition, laboratory and other fees, are paid on the scholar's behalf by the Rhodes Trustees.

Each scholar also receives an allowance adequate to meet necessary expenses for term-time and vacations. The Rhodes Trustees cover the costs of travel to and from Oxford, and upon application, may approve additional grants for research purposes or study-related travel.