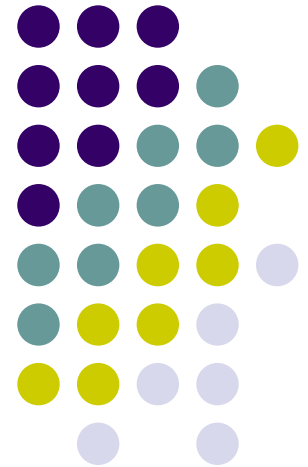
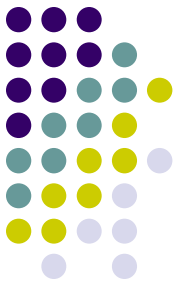


The DMCA and the Regulation of Scientific Research

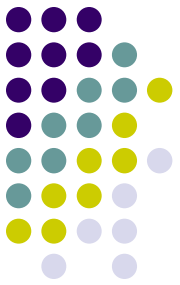
Joseph Liu
Boston College Law School
February 28, 2003
U.C. Berkeley DRM Conference





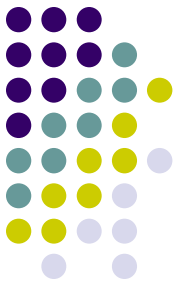
Background

- Congress enacts DMCA in 1998
 - Liability for acts of circumvention
 - Liability for distributing technologies
- Encryption research exemption: 1201(g)
 - “Good faith” research privileged
- Cases involving research
 - e.g., Felten
- Current debate over impact on research



Impact on Research

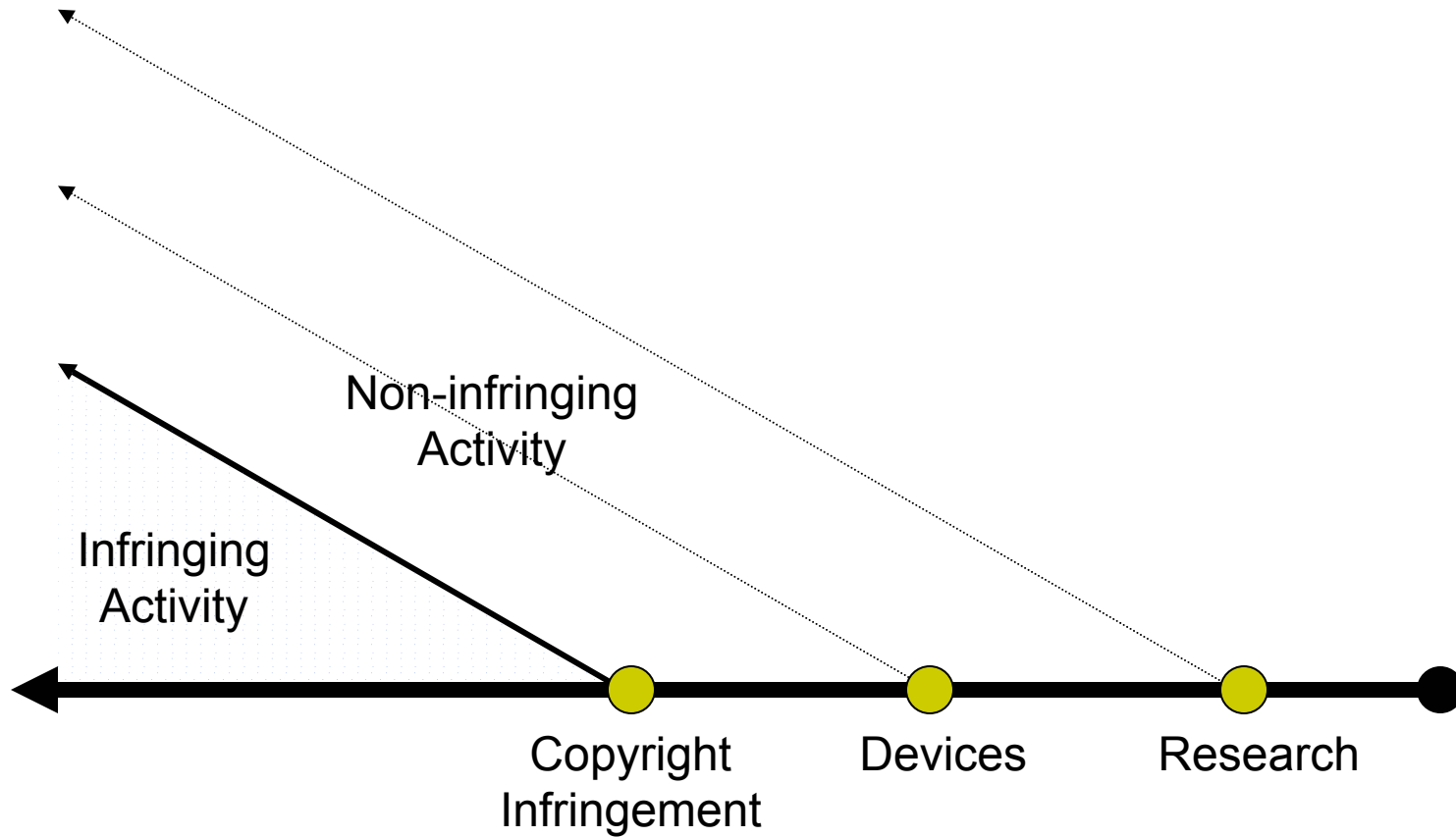
- Academic encryption researchers should be able to conduct some research without significant fear of liability under the DMCA
- The DMCA will have a non-trivial impact on the conditions under which such research takes place

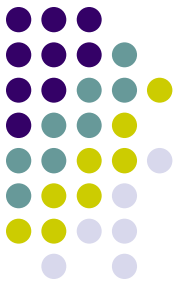


Impact on Research

- The DMCA will have a non-trivial impact on the conditions under which such research takes place
 - Limit who can conduct research
 - Impose additional hurdles before research
 - Limit free communication about research
 - Limit avenues for publication
 - Require notice and disclosure of results
 - Affect content of published work

Evaluating the Impact





Implications

- Be sensitive to the collateral impact on legitimate activities
- Get involvement of all of the many parties potentially affected by the legislation
- Build in some flexibility to take care of unanticipated collateral effects