to accommodate the interests of the owners of copyrighted works with those who use or facilitate the use of those works in the digital age.

A final title of the bill is the Vessel Hull Design Protection Act. Although it was not part of the Senate version of the legislation, it was accepted at conference. I share Senator HATCH's concerns about this controversial title. It contains not only industrial design protection, which itself has created controversy in the past because of its impact on consumers and others, but it protects functionality of vessel hulls in addition to aesthetic aspects. It is my understanding that functionality is protected from copying through patent, and this title is a significant departure from that principle, although for a specific narrow area.

Also, I wish to note that although data base protection is not included in this bill, I think it is important that we make every effort to address this significant issue next year.

In closing, I wish to thank the Chairman of the conference, Senator HATCH, and all of the other members of the conference for their cooperation in resolving this matter. I am very pleased with the outcome.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. HATCH. Mr. President, in the wining days of a Congress, so many important measures need attention that the significance of individual bills is often not appreciated. This is even more true for a bill that has copyright as its subject matter, such as the Digital Millennium Copyright Act, the conference report which passed the Senate today by unanimous consent. But the DMCA is one of the most important bills passed this session, as the distinguished majority leader stated yesterday.

''Digital Millennium'' may seem grandiose, but in fact it accurately describes the purpose of the bill—to set copyright law up to meet the promise and the challenge of the digital world in the new millennium. Digital ''world'' is appropriate here, because the Internet has made it possible for information—including valuable American copyrighted works—to flow around the globe in a matter of hours, and Internet end users can receive copies of movies, music, software, video games and literary and graphic works that are as good as the originals. Indeed, the initial impetus for the DMCA was the implementation of the World Intellectual Property Organization (WIPO) treaties on copyright and on performances and phonorecords.

The WIPO treaties and the DMCA will protect the property rights of Americans in their work as they move in the global, digital marketplace, and, by doing so, continue to encourage the creation of new works to inspire and delight us and to improve the quality of our lives.

In addition to securing copyright in the global, digital environment, the DMCA also clarifies the liability of online and Internet service providers—OSPs and ISPs—for copyright infringement liability. The OSPs and ISPs needed more certainty in this area in order to attract the substantial investments necessary to continue the expansion and upgrading of the Internet.

The final component of the DMCA is the Vessel Hull Design Protection, Act (VHDPA). This legislation was not part of the Senate-passed version of the DMCA; rather, it was accepted by the Senate conferees in deference to the House of Representatives. Although I support the idea of industrial design protection as a legal regime outside of patent law, I appreciate how controversial it is, and I think that the Senate should act circumspectly. Furthermore, I am concerned that this bill is not like traditional industrial design protection in that the VHDPA protects the functionality of vessel hulls, not only its aesthetic aspects.

But because the VHDPA is limited only to boat hulls, I felt that I could acquiesce in including it in the conference report as a limited experiment in design protection. In order to make it truly experimental, I suggested, and the conferees adopted, modifications that ''sunset'' the bill two years after enactment and that require two studies of its effect. Therefore, in the future, we will be able to re-evaluate the Act, and we will have the benefit of two studies—both of them conducted jointly by the Register of Copyrights and the Commissioner of Patents and Trademarks—to help us make the right decision.

In the nearer future—early in the next session—I intend to focus my attention on database protection legislation. The House bill on this issue, which was attached by the House to the WIPO implementation legislation, was a good start toward tackling the problem of database piracy. It was quite controversial, however, so I asked the parties to sit down with me to work out a compromise bill, so that disagreements on database protection would not jeopardize the DMCA. This effort resulted in a bill draft that attempted to accommodate the diverging interests. The scientific research community, in particular, favored my approach because it allayed many of their fears that recognizing a property right in databases would hamper scientific research.

Neither the House bill nor my proposal was accepted by the conferees, but I am determined to work on this issue in the next Congress. Indeed, I intend to introduce a bill based on my proposal, have a hearing on database protection, and move database legislation as quickly as possible. We need to encourage the substantial investment of money, time and labor that it takes to gather and organize information and at the same time address the reasonable concerns of information users. In our global, high tech era, information will be the coin of the realm, and I see database protection as the next step in moving the law into the digital millennium.

In closing, I would like to recognize the many people who brought this bill to a successful conclusion. First, I would like to thank my colleague, Senator PATRICK LEAHY, the distinguished ranking member of the Judiciary Committee, who was of invaluable assistance in getting this important piece of legislation passed. Two other distinguished colleagues, Senator STORM THURMOND and Senator JOHN ASHCROFT, participated in the refining process that made the DMCA a better bill.

Second, I want to thank the House conferees, especially Congressman HENRY HYDE, the distinguished chairman of the Judiciary Committee, Congressman HOWARD COBLE, the distinguished chairman of the Subcommittee on Courts and Intellectual Property, and Congressman TOM BLILEY, the distinguished chairman of the Commerce Committee for their willingness to consider the Senate's views objectively and dispassionately. They too wanted to get this done, and it was the spirit of cooperation on both sides that produced this admirable result.

Finally, I would like to acknowledge the hard work done by the Senate and House staffs. There were so many who worked on this bill that it would take a column of the CONGRESSIONAL RECORD to list them. But I would like to mention just a few. Manus Cooney, the staff director and chief counsel of the Senate Judiciary Committee, was the staff pilot for the DMCA. He was ably assisted by Edward Damich, Chief Intellectual Property Counsel of the Committee, and Staff Assistant Troy Dow. Senator THURMOND was ably assisted in the conference committee by his Judiciary Committee Counsel, Garry Malphus.

Bruce Cohen, Minority Chief Counsel and Staff Director of the Judiciary Committee, Beryl Howell, Minority General Counsel, and Marla Grossman, Minority Counsel, provided invaluable assistance on all levels. We had superb cooperation from the minority, and the DMCA is truly a bipartisan bill.

Turning to the House side, I want to express my appreciation for the contributions of Mitch Glazier, Chief Counsel of the Subcommittee on Courts and Intellectual Property, Debra Laman, Counsel of the Subcommittee, Robert Raben, Minority Counsel of the Subcommittee, Justin Lilley, General Counsel of the Commerce Committee, and Andrew Levin, Minority Counsel of that Committee.

Mr. President, this bill, the Digital Millennium Copyright Act, is one of the most important bills in this whole Congress. It has taken a tremendous amount of effort from all of us to be able to put this together. It is going to make a difference in so many ways—in the protection of copyrighted works, in digital communication and otherwise—throughout the world, that I feel very, very happy to be able to say that this is being enacted into law at this particular point.

I would like to state my agreement with certain important points that Senator LEAHY made in his remarks about Section 1201(k), ''Certain Analog Devices and Certain Technological Measures.'' The Senator emphasized that that section establishes requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is also my understanding that the intent of the conferees is that these provisions apply only to analog video recording devices.

In addition, because innovation and technological development thrive in unregulated environments, this section should not be misconstrued as providing any impetus or precedent for regulating or otherwise dictating to the computer software industry technological standards. I agree fully with the assessment of the conferees that technology develops best and most rapidly in response to marketplace forces. For these reasons, this section applies to analog technologies only, and it is entirely without prejudice to digital technologies.

Let me just say that I am disappointed that we were not able to include database protection in this bill this year. There are so many people who would like to have that done, on the floor and in the business world and elsewhere, but we were unable to get it done because of objections and because of some dissent. But I would like to put everybody on notice that, shortly after we get back next year, I will file a database protection bill. I believe my colleague from Vermont will join me in this. That, hopefully, will be a bill that everybody can support, because it is absolutely critical that we get this done.

It will be one of the highest orders of priority that we will have on the Senate Judiciary Committee next year. It was one of the things that I feel disappointed we were unable to get done on this particular bill. It just could not be done at this time. I know there are people who are disappointed, but we will get it done next year—we will do everything we can to get it done, and I hope we can call upon industry and everyone else interested in this issue throughout the country to help us in this matter. I hope our colleagues will, because it is very, very important.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Vermont.

Mr. LEAHY. Mr. President, America's founders recognized and valued the creativity of this nation's citizens to such an extent that intellectual property rights are rooted in the Constitution. Article I, Section 8, Clause 8 of the Constitution states that

> The Congress shall have power . . . [t]o promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The Continental Congress proclaimed,

> Nothing is more properly a man's own than the fruit of his study.''

Protecting intellectual property rights is just as important today as it was when America was a fledgling nation.

It is for this reason I am pleased that the Senate has today passed the Conference Report on the Digital Millennium Copyright Act (DMCA), H.R. 2281.

Title I of the DMCA will implement the two World Intellectual Property Organization (WIPO) copyright treaties. These treaties will fortify intellectual property rights around the world and will help unleash the full potential of America's most creative industries, including the computer software, publishing, movie, recording and other copyrighted industries that are subject to online piracy. By insuring better protection of the creative works available online, the DMCA will also encourage the continued growth of the Internet and the global information infrastructure. It will encourage the ingenuity of the American people, and will send a powerful message to intellectual property pirates that we will not tolerate theft.

I should note that there are provisions in Title I that address certain technologies used to control copying of motion pictures in analog form on video cassette recorders which were not part of either the original Senate or House DMCA bills. These provisions establish certain requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is my understanding that these provisions do not establish any obligations with respect to digital technologies, including computers or software.

It is also my understanding that the intent of the conferees is that these provisions neither establish, nor should be interpreted as establishing, a precedent for Congress to legislate specific standards or specific technologies to be used as technological protection measures, particularly with respect to computers and software. Generally, Congress should not establish technology specific rules; technology develops best and most rapidly in response to marketplace forces.

Title II of the DMCA will limit the infringement liability of online service providers. This title is intended to preserve incentives for online service providers and copyright owners to cooperate to detect and address copyright infringements that occur in the digital networked environment.

Title III will provide a minor, yet important, clarification in section 117 of the Copyright Act to ensure that the lawful owner or lessee of a computer machine may authorize an independent service provider, a person unaffiliated with either the owner or lessee of the machine, to activate the machine for the sole purpose of servicing its hardware components.

Title IV will begin to update our nation's copyright laws with respect to library, archives, and educational uses of copyrighted works in a digital environment. It includes provisions relating to the Commissioner of Patents and Trademarks and the Register of Copyrights, and clarifies the role of the Copyright Office. It also addresses the assumption of contractual obligations related to the transfer of rights in motion pictures. Finally, this title creates a fair and efficient licensing mechanism to address the complex issues facing copyright owners and users of copyrighted materials as a result of the rapid growth of digital audio services.

Title V, the ''Vessel Hull Design Protection Act,'' creates a new form of sui generis intellectual property protection for vessel hull designs. By adoption of this title, however, the Conferees wisely took no position on the advisability or propriety of adopting broader design protection for other useful articles. Indeed, when broad industrial design legislation was considered by the Congress in the late 1980s and early 1990s, a number of legitimate concerns were raised about the effects such legislation would have, particularly on the cost of auto repairs. Establishing narrow protection for vessel hulls in the conference report should not be interpreted as signaling support, or setting a precedent, for broader design protection that could negatively affect the ability of consumers to obtain economical, quality auto repairs.

The Senate today is passing a balanced and important package. Certain issues that the House had included in the version it passed on August 4, 1998, were eliminated to allow consideration of the rest of the package in a timely manner.

One of the issues dropped was that of database protection. Title V of the House passed DMCA bill created a new federal prohibition against the misappropriation of databases that are the product of substantial investment, with both civil remedies and criminal penalties. The argument for enhanced database protection is that legal rulings and technological developments have eroded protections against database theft. Companies may be able to copy significant portions of established databases and sell them, avoiding the substantial cost of creating and verifying the databases themselves. I appreciate that the threat to U.S. databases has been magnified because database protection laws recently implemented in European Union countries will not be available to U.S. publishers unless comparable legislation is enacted in the U.S.