

The courts have established clear precedent for fair use. When a consumer purchases a vinyl record, an audio CD, VHS video tape or DVD movie, etc, he has the right and the technical capability to access that content perpetually on a multitude of devices, made by a multitude of different manufacturers. To preserve these fair use rights, I propose that **digital music** and **digital video** be excluded from prohibitions related to circumventing access control mechanisms.

- (1) **digital music:** Today if I purchase digital music from iTunes, there are technical barriers intended to prevent me from accessing that music from non-Apple hardware. Similarly, Windows Media Files are designed to prevent access from non-Microsoft platforms. Thus my fair use rights are infringed. To exercise my fair use rights I must circumvent the protective technology.
- (2) **digital video:** If I record a movie on my Tivo or similar device, proposed technology would prevent me from keeping the movie beyond a certain date--denying me access to the movie after that date, and effectively denying me the fair use right to keep a copy of the movie. In order to exercise the same fair use rights established by the courts and widely enjoyed today, I would have to circumvent the protective technology.

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