

To Whom It May Concern within the Library of Congress, regarding circumvention of copyright protection systems and access control technologies (henceforth referred to generically as “DRM” for brevity).

As an artist, content creator, and an avid consumer of all forms of art and content, it is my firm belief that limitations of personal use of art and content via DRM have a profoundly negative impact on consumers and providers alike.

I believe it should be legal to circumvent DRM and similar technologies on content which the individual has purchased (or obtained for free legally) for any and all personal use, including back-ups, copying, format conversion, and transfer.

Ultimately, I think the use of DRM in its present form should be discontinued entirely, apart from loan and library services. But legalizing circumvention is a vital first step in clearing the field for more effective and innovative forms of digital copyright management. DRM is a flawed system, and cannot be fixed without altering it beyond recognition.

There are multiple problems with systems like DRM that prevent the owner of the content from being able to enjoy it as they have always been able to prior to transitioning to digital content. These problems are outlined below.

First, while digital technology is constantly improving, it is far from perfect. It is reasonable and wise to create back-ups of all content stored on ones personal devices in order to ensure continued access should their primary device fail. DRM often prevents this.

It is true that many services from which one can purchase or obtain DRM’ed content provide cloud services so that one may re-obtain their content in the event of data loss. However, this is not a solution. It is simply another technology waiting to break.

Millions of people have permanently lost access to their purchased or legal free content when formats have lost support, DRM protocols have been discontinued, or disruptions in the stability of the provider, DRM, or format, have resulted in permanent loss of data. This has happened repeatedly in the digital music, movies, and ebook industries, leaving honest customers without access to the content they legally acquired, and with no recourse in order to re-obtain it.

Not only is technology fickle and ever-changing, but so is the business world. It is not right for people to lose access to the things they own due to this fickleness. People should be permitted to take personal precautions, like making copies for back-ups, in order to ensure their content is not lost.

Similarly, over time, certain file formats or devices have been discontinued and are no longer supported. The only way for the customer to retain their content is to convert the file to a presently-supported format. Again, this is prohibited by many DRM technologies, and results in lose

of access to ones content.

Also, DRM does not prevent theft. Because the desires of a consumer to back-up, copy, transfer, or convert a file are reasonable and wise, this has resulted in numerous technologies designed to circumvent DRM technology, regardless of its legality. Because of these rampantly available circumvention technologies, loan services are at an unfair disadvantage.

Services which loan content to a user are at high risk of having their content pirated repeatedly. Ultimately, this may diminish publishers', artists' and content creators' trust in digital loan services and libraries, and may ultimately threaten their existence. If the loan services and libraries can't protect the content they are loaning, and honor the terms of their agreement with the creator from whom they purchased the content, it is logical for the creator to stop allowing them to loan out their content.

This would have the obvious effect of costing jobs. But it would also be devastating to the ability of people to access content. It is undeniable at this stage that all forms of media are moving to digital, or are already completely there. With books specifically, physical book libraries provide a vital service for an advanced nation, by offering those with fewer resources a way to access content, information, and education, and thus improving their ability to be socially mobile.

Libraries are already moving online, and in time, the physical library will probably become less and less common, or simply become a portal to their digital content. It is vital for communities and for equal opportunity that libraries remain viable as businesses. Their inability to protect their content due to ubiquitous DRM circumvention may ultimately threaten that.

It is obviously fair for a loan service to have restrictive use terms, like libraries do, because the user does not own the content. But the high availability of circumvention techniques degrades the effectiveness of DRM technologies for loan services.

If DRM circumvention for purchased or legal free content were permitted, provided, or, ideally, not employed at all, this gives loan services the breathing room to develop their own unique DRM protocol with less risk of it being widely circumvented.

The currently high supply and demand of DRM circumvention technology has created an unfair business disadvantage for loan services, reducing the viability of their companies and essentially encouraging theft. Allowing legal circumvention of DRM for purchased or legal free content would help reduce this disadvantage.

DRM technologies as currently enforced essentially punish honest and enthusiastic consumers of art and content, while rewarding theft and dishonesty. Honest customers are disallowed from using their content in a way that suits them (and sometimes, disallowed from using it at all), while thieves are rewarded with completely customizable use.

The typical consumer understands that in order for them to continue enjoying artists and content creators, they must support them with their patronage. And I firmly believe, based on my own ethics and those I have observed in others, that the overwhelming majority of consumers wish to lend that support.

A recent study by Duke and Rice University confirmed my personal observation, concluding that discontinuing DRM could reduce piracy. This makes logical sense: an honest customer who has paid for content which they have later been prevented from accessing has every right to be frustrated. And these frustrations encourage piracy. An honest customer who is happy and can use their content personally as they please has less reason to consider piracy. There are also many anecdotal reports of artists removing DRM from their content and this resulting in increased sales.

The banning of reasonable and wise personal use that DRM perpetuates often prevents people from supporting the artists and creators they love. Who wants to spend money only to be told a year later that they are no longer allowed to access the content they own?

As an artist and creator, I do not now, have never, and will never use DRM or similar technologies to protect my own content. It is unfair to my supporters, and insulting to their character. I instead opt for Creative Commons licensing, providing simple and open terms in clear language.

While this may not stop someone from using my content illegally, neither does DRM. And with such a license, I still have the legal ability to pursue any serious violations of my copyright, I do not contribute to the unfair damage to businesses DRM causes, and I can say that I do my best to provide an enjoyable experience to my supporters, with full faith in the integrity of their character.

But there is still more conversation to be had about other digital protection technologies. I will choose to continue using open licensing regardless, but DRM and open licensing are not the only options. With alterations, watermarking may be the way forward. Or perhaps something entirely new. But DRM will never be a viable solution. It simply doesn't work, and causes more damage to business, consumers, and artists than it prevents.

Thank you for opening the process to feedback, and for taking the time to read my comments.