

## DVD Action - Comments by Susan Aker

### Technological Measures -

1. There are numerous controls in place to control access to copyrighted works - where such controls are not necessary in most cases. Perhaps, instead of attempting to control access through Technological measures, the affected industries should look into ways to make piracy impractical, such as VHS or DVD or CD versions that are so inexpensive that it would be more costly to make your own than to buy one. None of these formats have a price tag that accurately reflects cost of production.
2. We should attempt to make the necessity for such measures non-existent in the future, not merely come up with new ones that are harder to bypass.
3. On the DVD issue, there are certainly technological measures in place to prevent a DVD owner from playing a legitimately purchased DVD. It should not matter where in the world the DVD was purchased, it should be playable on any platform the owner of the DVD chooses for viewing. The current DVD encryption means that overseas purchases must be played on equipment also purchased overseas, which is exceedingly unfair to the purchaser. A DVD should be a DVD and, while I don't expect to be able to play a BETA format videocassette in a VHS player, this isn't the same situation. They are all DVD format and should be interchangeable.

### Availability

1. At this point, I can't think of any works or classes of works that have become inaccessible because of the changes to the technologies, but that is only because the old formats are still being used. When DVD format completely replaces VHS tapes, as CD format has replaced LPs, then the problem with the regional encryption will limit access to certain classes of works.
2. The advantages to DVD format are obvious to anyone who has ever viewed a DVD and compared the experience to VHS. However, I do not believe that DVD should be any more restricted than VHS is.
3. I'm not sure of the intent of the question about using both restricted and non-restricted formats. Obviously, if one owned a work in both formats they can view the work in both formats. If this is a question about whether a person has a right to create a backup, DVD to VHS perhaps, then I would have to answer that it should certainly be allowed.
4. Fair use is a term that is being bandied about a great deal and is something that has been disappearing bit by bit over the years as more restrictive laws are passed. This trend needs to reverse its course and go back to more liberal views on what is Fair use.
5. At present time, I am unaware of any works available only in electronic formats.

### Nonprofit & Educational

1. Nonprofit and Educational institutions are one of the places where a change in marketing would be most beneficial. If a person were able to check out, from a local library, any DVD, CD, or E-Book that they wished, where would be the reason for piracy. People who wished to own them would still buy a copy to keep, but those without the resources to purchase would have the opportunity to see, hear or read the work.
2. Preservation of E-books and even Music is fairly easy on a network with enough disk space, but Digital Movies are a very large file size.
3. Anti-circumvention laws should not be required, I say again. Take this for an example, even with the increasing cost of books, now about \$7 per copy, how often do you hear of black market books? They aren't much harder to copy than any other copyrighted work, and easier than some. What about artwork? Scan a print into the computer and sell it as Wallpaper/Screen Savers. Isn't that the same thing - a kind of theft? Why should movies/music be any different?

### Criticism, Comment, Reporting, Teaching, Scholarship, or Research

1. This again comes to the point of Fair use. All of those things should come under that heading and there shouldn't be a technological defense to prevent Fair use, or a legal one either.
2. Technological measures, and laws preventing their circumvention, could conceivably remove the option of using a copyrighted work in any way other than whatever the producer of the work wishes. Goodbye Freedom of Speech and the Right to Expression and even the Right to Criticize.
3. This is a threat that I do not think has yet come to fruition, but the courts are moving that direction with the DVD lawsuit still ongoing.
4. Advantages of Digital format is specific to its clarity and also the clarity it can pass to any copies. This should be pointed out as a good thing, and not something to say that tighter protections are required. As I have pointed out before, if legitimate copies were of a price that pirates wouldn't be tempted to compete with (as DVD format is currently,) then piracy would not be a problem.
5. Back to anti-circumvention laws - there don't need to be any. There shouldn't be anything a person is required to circumvent. Copying to sell is illegal - copying for a personal backup if something happens to the original is and should be legal.

### Effect on Market Value of Copyrighted Works

1. Asking how technological measures can be circumvented isn't the right question. Ask why they should be required instead. A book hasn't any copy prevention. A program transmitted over the airwaves hasn't any copy prevention. An art print hasn't any copy prevention. Why should digital media require any? The copyright laws already protect these properties. Nothing more should be required.

2. Anytime something is added into the creation of a product, it affects the price, though with digital media only the original research into the encryption would need to be added in. After that, it would be a simple matter to have all copies created use the same format. Still, it is an addition that shouldn't be required for reasons already stated.
3. Because of DVD encryption, the availability of copyrighted works usable by a person is limited to their region of the world. This does affect the availability. Some works may be popular in other parts of the world and completely unavailable in the prospective buyer's region. Internet purchase would allow them to obtain a copy, but encryption by region prevents playing the purchase.
4. Marketing is, of course, also affected by the regional encryption. Through the Internet, the entire world is the marketplace. A purchaser should be able to play their purchase on their own equipment, no matter what part of the world it is coming from.
5. As far as I know, regional encryption is limited to DVD format and does not affect videotape, music or e-book purchases.
6. How could these impacts be caused by anything except the regional encryption? Which is something else, not copy circumvention. The encryption does not prevent a copy being made, only whether or not it will play on a specific device. Any copies created from the original will contain the original encryption which can then be played on any device with a decryption program included. The encryption used on DVD format disks does not prevent piracy.
7. The Internet has made works more widely available. DVD regional encryption comes back and limits the availability.

Comments above are made from a widely read Computer Programmer - AS/400 platform. I have found myself aghast and appalled at the reaction of the MPAA to the creation of a program allowing DVD format disks to be played on Linux operating systems. This capability increases the number of people who might be interested in buying DVD format disks. This is innovation, not theft, and has nothing whatsoever to do with copyright law. We don't need any new copyright laws. I wonder if the MPAA is fussing because they're afraid someone will copy the movies or maybe they're just embarrassed that someone broke the encryption that shouldn't have been there in the first place.

New Zealand DVD players will play any DVD format disk in the world. Any others are illegal. I think it would be a good thing if the United States also made such a stand. Regional encryption should be illegal.