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Comments on 17 USC Section 1201(a)(1), Digital Millennium Copyright Act

Dear Copyright Office,

I do not support the restrictions on the circumvention of encryption technologies used to control access to Copyrighted material. The purpose of a Copyright is to allow the creator/owner of a work, to establish and maintain a temporary monopoly on the use of said work. After the appropriate time expires, the work is then released into the Public Domain.

The purpose of technological encryption used to control access to digital material is not to protect a Copyright from illegal or improper use, but rather as a means to extract further monetary compensation for works already legally acquired.

An example of this situation is apparent with regards to the Digital Versatile Disk (DVD) storage medium. The proponents of Section 1201 would have you believe that the Content Scrambling System (CSS) used to control access to DVD Data is designed to combat illegal copying (pirating) of Copyrighted material. However, a few technical details reveal that this presumption is unsupported and highly unlikely. The following facts illustrate this:

1. All DVD players, standalone and PC-based, require the CSS encryption to be intact and valid before playback will occur. Thus, defeating the CSS encryption to duplicate a DVD title would produce a copy that is unusable.
2. Standalone systems are available, which duplicate DVD disks in their entirety, with the CSS encryption in place and undefeated. Although extremely expensive, this equipment is the only method available for a viable duplication of a DVD title.
3. The DVD Copyright Control Association (CCA) charges substantial licensing fees to the makers of DVD playback devices and software. They have publicly stated that the CSS encryption is designed to prevent playback of a DVD by a non-licensed device or software application.
4. Consumers are charged a tax upon purchasing digital recording media, specifically to offset any losses Copyright holders incur due to illegal copying and distribution of their work(s).

These facts, along with others not mentioned, clearly show that the purpose of the DVD CSS encryption is not at all an attempt to prevent illegal duplication and distribution of Copyrighted works. Rather, it is a technological method of extracting additional monetary compensation for a work already paid for. This is an obvious violation of the Fair-Use statutes. The following scenario illustrates this apparent attempt at extortion:

1. I purchase a DVD drive for my home PC. The manufacturer of the drive has already paid a license fee to the DVD CCA for the CSS encryption algorithm. This cost is passed on to me, the consumer, as part of the retail price of the drive.
2. I purchase a DVD title from a local video store.
3. I can watch this legally acquired DVD title on a standalone player connected to my television (the same license fee was included in the price of this unit) without any additional costs.
4. I would be able to watch the DVD title on my computer, using my new DVD drive, if I was using the Windows™ Operation System. The DVD drive contained a software application for Windows™ on a CD. This software is supplied with the DVD drive and is licensed along with the hardware device. No software application is included for the Operation System I happen to use on my PC (Linux).
5. The only current method of playing my legally acquired DVD title on the Linux Operating System, is to circumvent the CSS encryption and convert the DVD data to a format supported by a Linux-based player.

It is step 5 that the CSS encryption explicitly seeks to prevent. The DVD CCA would have me purchase either the Windows™ Operating System, so that I could use the application included with the DVD drive, or purchase some as yet unwritten Linux-based application which would also include the cost of the CSS license fee.

The Fair-Use statutes allow me to legally playback media on the equipment of my choice, not the DVD CCA's choice. The additional costs associated with the playback of a DVD title on a non-Windows™ computer amount to a gouging of consumers. The license fee to access the DVD title has already been paid for in the purchase of the DVD drive. Any additional duplicate fee is nothing less than extortion.

In summary, it is clear that the encryption methods used to control access to a Copyrighted work are not designed to prevent illegal duplication and distribution of said work. It is merely a technological method of extracting addition monetary compensation for access to a legally owned title, which without the encryption, would amount to simple fair-use of the Copyrighted work.

It is for this reason, that I am vehemently opposed to the enforcement of the DMCA Section 1201. I implore you to reject this legislation on the grounds that it directly violates the statutes guaranteeing fair-use.

Thank your consideration,

Michael S. Oski