

Comments to Copyright Office Regarding Prohibition of Circumvention of Access Control Technologies, 17 February 2000

From:

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I oppose any effort of the Copyright Office to expand the meaning of the Digital Millennium Copyright Act (DMCA), or any other act, such that it interferes with the reasonable use of DVD movies on Linux-based computer platforms, or on non-supported brands, types, or revisions of computer hardware. I have many reasons, but here are some of them:

Not Really Access “Controls”: Nothing in the cipher on DVD media prevents “access” to the data upon it. The data may be blindly copied, cipher and all, without any decryption, using standard DVD tools. This is all that is necessary to pirate a DVD – the pirate need not break the code at all unless he wishes to watch the movie to pass the time while copying it. He can simply make a bit-for-bit, binary image without using programs like DeCSS. For that matter, a pirate can simply play the movie on a licensed player, and connect the output to hundreds of ordinary video tape recorders to pirate on a mass production scale, again, without “breaking” the DVD code. For at least the next few years, blank DVD-writable media will be more expensive than the retail price of DVD movies, so even if it required DeCSS to copy the DVD (it doesn’t), it still would not be cost effective for the pirate.

DMCA Permits Compatibility: There is a specific provision in DMCA which allows circumvention of intended access controls for the purpose of making the system compatible with existing hardware. This is a perfectly reasonable provision of the Act which simply codifies Fair Use. Linux is seen as an elegant answer to the Microsoft monopoly which the Justice Department is currently prosecuting. Please don’t penalize the growth of Linux on the desktop by denying it one of the hottest consumer technologies.

Zones Are Unfair: A key desire of MPAA to prevent DeCSS from being used is so that they can enforce “Zones”, where DVD’s purchased lawfully in the USA may not be played in other countries. It is not the business of the Copyright Office to assist monopolistic media corporations in their quest to relegate whole continents to a “second class” status of paying twice as much money for DVD releases, which come out months later than the USA. By strictly controlling supply channels in Europe (a practice which would be illegal in the USA), the MPAA and other media corporations artificially stifle competition and ruthlessly enforce price-fixed cartels. I bought several DVD’s in the USA when I lived there and they do not play on my DVD-capable PC here in England. I bought those discs lawfully, and did not agree to any

licensing restrictions when I did so – there isn't even so much as a shrink-wrap boilerplate license on the package. There were no clear markings on it which said that it would fail when used in an "unauthorized" player, even though this behavior had been deliberately and covertly designed into the disc media. I have contacted the companies in question, and they have refused to refund my purchase or supply local equivalents.

Fair Use: Governments offer to protect Copyrights based upon certain assumptions. One, that the information will be public domain at some point. Two, that certain types of use ("Fair Use") are to be permitted, such as making a single archival copy, time-shifting playback, certain types of scholarly research, etc. And three, that such protections are for the greater good of society (hence, pornography is not protected). The encryption system on DVD media is designed specifically to thwart Fair Use and to ensure that the data *never* enters the public domain. As the media producers are not living up to their part of the bargain, the Copyright Office should feel under no obligation to protect this one-sided arrangement.

Privacy: It is none of the MPAA's business how we choose to enjoy our movie purchases in the privacy of our own homes. The test that should apply here is that it must be critical to the survival of the film industry before the privacy of the home is pierced.

Independent Content: Providing a monopoly over the encryption of programs on DVD effectively grants to the MPAA a total monopoly on the material the public is allowed to view. This will prevent access to DVD by independent movie producers, government agencies, smaller countries, minorities, and academia. Once DVD reaches "critical mass", many homes will not have a conventional VCR with which to view non-monopolistic media.

Unworkable: Ultimately, no law is going to be able to prevent people from using technology as they see fit, for peaceful purposes. Allowing the MPAA to dictate the trajectory of technology will give them unwarranted control over our lives. Already, the resentment of MPAA's heavy-handed attempt at ruining the lives of a few well-intentioned teenagers had resulted in about ten thousand sites which offer the source code to DeCSS on the Internet. Even if they are all closed down, other civil libertarians have vowed to anonymously post the code periodically on Usenet and other public forums, so that it will be available to anybody, forever.

In conclusion, I would like to thank the Copyright Office for the opportunity to present my opinions about possible DMCA provisions and enforcement.

Best Regards,

/s/ Gary M. Watson