

Sir,

It is a pleasure to here that a branch of the United States government is finally listening to people who actually work in the world of technology and to their thoughts about the Digital Millennium Copyright act. Before I begin my dissection of this law I feel that I need to make several things clear.

I am a 16 year old computer programmer and a columnist for the internet website www.tekpress.com. I know over half a dozen programming languages. I am not a "cracker" nor do I consider myself to be a "hacker". However, my age and my knowledge have allowed many prejudiced people to label me as such. Thirty years ago these same people would have easily labeled me a "geek" or a "nerd". However today these terms are not as socially accepted, since today virtually everyone has at least some knowledge of computers. I do consider myself to be a proud member of the open source and Linux communities and I am a strong critic of Microsoft and what I see to be anti competitive behavior. I have never defaced a website without permission, or accessed a system that I wasn't allowed to. This is not to say that I couldn't. I attend a gifted school and am in no way "average". I will admit to being a bit haughty in my ways but when it comes to technology I know what I'm talking about.

I am a strong believer in intellectual property. I have written several pieces of shareware myself and I would hate to loose the writes to my own code. I know sharware is very different from normal "in the box" software but I have an idea about what the software companies have to go through. Just in case your interested I wrote laabelwaare 1.0 for windows and aaceteroids for the palmpilot environment. I'm currently working on a port of laabelwarre for the Linux environment.

I understand that the purpose of this rule making proceeding is to determine whether there are classes of works as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures [that control access to copyrighted works]. However I feel that you need to understand where I am coming from in order to see how this law effects programmers and all people. Please read this slowly as the phrasing of my argument is very important!

Let us examine copyright law. I will use the recent issue over DVD (go to www.opendvd.org for more info) encryption to prove my point. A "class of copyrighted works" as I believe is stated in the DMCA can be defined only in terms of who owns the work, and/or who uses the work. For example: if I purchase a DVD, I now own the DVD. While the maker of the

work written onto the DVD are in possession of the work's copyright, I am the owner of the disk that I purchased and entitled to have free access to the contents found on the disk by virtue of the fact that the copyright holder offered the work for sale and I bought it. I have no right to copy the disk, or to adversely affect the profits of the copyright holder. What right does the copyright owner have to determine what kind of access I have to my purchased DVD, as long as I am not infringing on their copyright (which I am not, no matter how I access the work on the disk – access is not copyright infringement in itself).

The same can be said for a DVD player. When I buy a DVD player the player I purchase becomes my property. While the blueprints and legal write to build the player are the property of the manufacturer. However I should have the legal write to take my DVD player apart and learn how it works if I want to, as long as I am not hurting the manufacturers future profits. I should have the write to know what is in my house, what it is actually doing there, what kind of electromagnetic emanations it is emitting, and what if any harm it can do to me. I should not have to rely entirely on the manufacturer or the government for this information. For decades they insisted that cigarettes were good for people and now what? I should also have the right to access the DVD player anyway I like. Whether through a computer, a TV, a projector etc. If the manufacturer doesn't support a certain platform for his player its his business. I should have the right to create software that will interact with the player as long as it doesn't help me cheat the manufacturer of his intellectual property. The software should become my own property and I should have the ability to distribute it as I want! However if the manufacturer of the player doesn't want to support my software because of any possible technical issues, he should have the right to invalidate any warranty outstanding on my player because they issues can cause him a monetary damage.

It is my opinion that, DMCA's language shows a serious misunderstanding of what is an effective technological measure of protection for copyrighted works; and, second that it, inadequately addresses a very important circumstance of technological protection. Firstly, the bill uses language which implies, that certain technological measures, such as encryption or scrambling, are "effective" means of protection of a copyright. That these technological measures that this bill protects can be deployed, not only to prevent piracy and other economically harmful unauthorized uses of copyrighted materials, but also to support new ways of disseminating copyrighted materials to users, and to safeguard the availability of legitimate

uses of those materials by people it is not given that certain means of protection are actually effective means. For example, it is known that in the current case of the MPAA and its attempts to control DeCSS, the CSS encryption of DVDs is not only a weak protection scheme, it is entirely useless when it comes to protection of the works on the DVDs. No one needs to decrypt DVDs in order to copy them. Encryption prevents being able to read the work, but it does not prevent copying of the work. If I can copy the contents of a DVD from the DVD to my hard drive, and then to another blank DVD I will successfully have infringed copyright. What DeCSS prevents you from doing is something that is actually very legal. If you want to make a partial copy of a movie for say, presentation purposes thanks to DeCSS you will not be able to. Also if you want to play a DVD on a Linux, BSD, OS/2, IRIX, or other relatively unknown computing platform these platforms. DeCSS was developed to circumvent the industry and you will not be able to because the DVD industry refuses to write decoders for allow Linux users to play DVD disks.

Why does the DVD industry refuse to support these platforms or DeCSS? The answer is very simple, control. They want to control how you view movies and they want to control every aspect of the technology. Cost is not the issue. Over 10 million people use Linux and porting the windows decoders to Linux would take maybe 2 months and could be done by 2 or 3 programmers (many of whom would work for free on this). They want to force people to accept their ways or pay the price. I wouldn't be surprised if Microsoft was forcing the industry on this issue but I have no way to prove this.

This act proposes that all forms of technological protection of copyrighted work be made unaccessible by ordinary people. This can turn into a violation of everyone's freedom of speech if not rephrased and made more particular in its meaning. Encryption schemes can be modified to have more than one use in any product. If this is done than accessing other parts can be made illegal as well because it endangers the "encryption" and many people are just dying for this extra control! Why they want this control is obvious. If they get this control, then you have to work for them in order to develop anything and then whatever you develop becomes theirs!

Finally, the average person on the street has no idea what DMCA, or DeCSS are. They probably don't even care. However, there are some people who care about their access to technology. We are the few the proud the "geeks", just kidding! However, our lively hood, nay our lives are dependent on access to computer and other technologies. We are creators

and engineers and you can not take away our right to reverse engineer technology it is a god given right and should not be taken away to give corporations even more power over our lives!

email me at brudolem@stuy.edu if you have comments

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