

I am Eric S. Raymond, the president of the Open Source Initiative. OSI advocates the practice of open-source software development, maintains a set of license guidelines to facilitate the practice, and educates people and organizations in how to apply the method. More information on our organization is at www.opensource.org.

OSI endorses the EFF's comments at

<http://www.eff.org/ip/DMCA/20000316_eff_dmca_alert.html>

We see other destructive consequences of a broad, anti-consumer interpretation of section 1201, as well. OSI's particular concerns, expressed on behalf of the open-source community, center on reverse engineering.

Open source software development is what gave us the Internet, and the World Wide Web, and Linux. This method has proven a tremendous source of innovation and dynamism in the computer industry. It has produced software of unprecedentedly high reliability, pointed to the way in which software engineering may finally become a mature and respectable discipline, and acted as a healthy check against provider monopolies.

The open-source community's ability to thwart monopolistic exploitation of software consumers would be seriously harmed by a broad reading of section 1201.

To see why, consider Microsoft Word. It has a dominant position in the market for word processors, and has repeatedly been identified as a key pillar of Microsoft's effective monopoly (91% market share) in desktop business systems -- a monopoly now the subject of a federal antitrust action. Competitive word processors, including open-source alternatives such as AbiWord, must be able to read and write Word files to be at all viable. Microsoft's refusal to fully and correctly document this format has forced competing developers to rely on reverse-engineering it.

If the "interoperability" safe harbor in section 12 is read as narrowly as Microsoft and other monopolists desire, the simple act of encrypting that format would criminalize any further reverse-engineering of it and turn competing word processors into burglars' tools. This would irreparably harm consumers by lending the coercive force of law to entrench Microsoft's lock on the market.

This is far from an exceptional example. The DVDCCA lawsuit over DeCSS has demonstrated that provider cartels are quite willing to use the DMCA as a club with which to beat the open-source community. If they succeed, they will dramatically reduce consumer choice and stifle the production of the valuable public good that is open-source software.