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I wish to make a few comments about comment 43, from  
Time Warner Inc., (Bernard R. Sorkin)

In answer 8, Bernard R. Sorkin claims that "Currently, films released on encrypted subscription television services and DVDs are generally also released in other formats, such as prints and tapes for theaters, VHS (video) and free television, to which access control measures have not been applied. These later formats can serve as viable substitutes for the encrypted formats."

Old analog media, such as VHS, prints, and television, is quickly being replaced by digital media, and will soon no longer be a viable substitution, for section 1201(a)(1) of the DMCA will also apply to the new digital replacements of the old analog media.

In answer 18, Bernard R. Sorkin mentions that no protection is inviolated, and legal enforcement is still needed. I argue that no digital protection is needed, and legal enforcement is enough. For over 20 years, there has been a form of digital media available to the public, CD-Audio. The music industry is still thriving despite the total lack of encryption of the digital media.

In answer 25, Bernard R. Sorkin claims that digital protection will result in work being more widely available. I believe digital protection results in more restriction in the use of the media, and less world wide available.

For purely commercial and not technological reasons, DVDs are often region encoded, and foreign DVDs, say, from Germany, will not work in U.S. region DVD players. This also is an argument against answer 10.

If a German teacher wished to pay a foreign DVD for a class, an 'educational' use of a work, the teacher would have to purchase a European region DVD player also. But if a Chinese teacher at the same school wanted to pay a Chinese DVD for a class, the teacher would have to buy a China region DVD player.

Any manipulation of a U.S. DVD player to play such foreign DVDs would seem to be an 'unauthorized access of the work' and be illegal.

The cost of additional DVD players for each region is a significant burden on educational access. This is clearly a negative effect of technical access controls. If DVD-audio also divides up the globe into different regions, and prevents extra-regional DVD-audio from being played, it would be a great burden on those who enjoy listening to music from other parts of the world.

Sincerely, Matt Kohner  
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