

Identity

My name is Bruce MacArthur.

Purpose

The purpose of this document is to submit comments for consideration concerning laws and rule-making concerning the restriction of the right to circumvent technological techniques and devices which restrict access to copyrighted works.

Class

I do not know the best way to specify the "class" of exemptions to which I refer; therefore, I will try to provide a useful description of the scope of "class" which I wish to specify or define.

I am a newcomer to the "Linux world", but -- at this time -- Linux is the only operating environment on my new computer. A promotional DVD was mailed to a member of my church, specifically due to his official capacity in this church. The official handed the DVD to me, and requested that I view it and prepare an evaluation for him to use in his official capacity. I tried to view it on my computer -- which is equipped with two DVD RW drives. I used "Kaffeine Media Player 0.4.3b", and chose the "Play DVD" option. When I chose the "Play" option, I was presented a dialogue-box which reads as follows --

This version of Xine (used by Kaffeine) has only a reduced set of supported codecs. It is not able to play DVDs. Please read http://portal.suse.com/sdb/en/2003/09/xine_dvd.html for further details.

There is some additional systems information to the effect that the problem is a legal problem -- the "open source" community is precluded not only from actual "reverse engineering" of the more-or-less standard codecs, but ALSO from even public discussion of the independent development of a new codec that can be used to produce a comparable effect.

I do not know to what extent, if any, I am effectively changing the topic -- but I believe that I am doing no such thing at all -- as I similarly quote Bill Machrone (PC Magazine, December 27, 2005, page 69) who, in part, wrote --

Under the DCMA, it's illegal to break encryption or copy protection. It's illegal to offer a tool that breaks encryption or copy protection, or to publish source code that demonstrates how the encryption or copy protection is done. **It's illegal to TALK about how to circumvent copy protection. In YOUR HOME, in YOUR CAR, anywhere. Get the picture?** (All emphases are added by MacArthur.)

Summary

If the present apparent state of affairs were to have existed in 1990, then it would have been illegal for Microsoft to invent "Microsoft Word", and it may well have been illegal for WordPerfect to have been invented -- and your present requirement for comments to be submitted in either of those formats would likewise be illegal !!! Your permission to use ASCII text (.txt) and PDF, however, would probably be legal(!).

I am very much concerned that the existing laws and rules seem to me to constitute clear-cut violations of pre-existing "Restraint Of Trade" laws AND that they are glaringly ANTI-Constitutional regarding such issues as "Freedom of Speech".

Facts

I have a very dear friend who has published a LOT of written documents (mostly in printed form) over the years. Frequently, she has seen her work re-printed -- even in international commercial distribution -- with no changes at all beyond the name of the alleged author and that individual's claimed credentials. Very sad-to-say, her only recourse has been so expensive -- and the likely benefits so few -- that she has virtually no choice but to do absolutely NOTHING about such violations of her rights!

I am outraged by this circumstance! And I am actively opposed to any violation of copyright or other intellectual property rights. For example, when I wanted to copy the text of the woman's first book onto my own hard disk drive, I requested her permission to do so; although she did not yet know me at all, she graciously granted that permission, and later generously paid me for the unique additions I made in the process!

However, I strongly resent the fact that I must use the tools of a friend -- rather than tools of my own which full-well "should" do the job -- to simply VIEW media which was distributed BY the copyright holder for the very specific purpose of being viewed by anyone willing to view it! The existing rules have effectively allowed these people to be deprived of their right to speak freely. And their right to engage in legitimate commerce or trade has been seriously compromised. And the same must also be said for those who (otherwise) would give a voice to such people and groups!

It also perturbs me to see the very realistic possibility that one could do everything that it is reasonably possible to have done to ensure that a copy of a particular work is entirely legitimate -- but find himself a criminal by "reason" that as little as an included quotation is said to have been inaccessible apart from an alleged circumvention of access controls. And the increasing (and equally un-Constitutional) tendency to presume that one is guilty until proven innocent can be expected to further the abuses.

It is neither appropriate nor acceptable for the government of the United States of America to deny fully "equal protection" of the law to ALL people (real and artificial)

who are citizens here or who legally reside here. It is also UN-Constitutional in the extreme. And that is precisely what is done by the draconian character of the existing laws.

It is not acceptable to claim either that "Well, you COULD have bought a Windows computer," or that "Your friend WAS willing to let you use his equipment." What if neither was the case -- there is NO alternative way for me to have viewed this media! Library computers seldom have DVD drives -- and they are so "secured" that any existing drive would be precluded from operating! (I am NOT making this up -- come on out to visit me, and I will prove it to you!) And the material simply is not available to me in any other format or media.

Particularly in an era when it is well-known that the major media corporations who promote such un-Constitutional "laws" are also well-known for stealing from the actual artists and other content-providers (by means of directly lying about the number of copies sold AND by means of demanding abusive contract provisions), it is especially heinous to allow laws that ensure maximum profits and minimal competition to the crooks!

I fully recognize that it is -- SOMETimes!!! -- a very difficult task to ensure that the proper rights of ALL parties are fully respected and implemented. But I also find myself unalterably opposed to laws whose effect is to define anyone who asks "What if ...?" as a criminal. It is my view that the actual and demonstrable violation of "intellectual property rights" and of copyrights should be made much easier to prosecute -- but that mere creation of a possibility for a potential violation (such as competing software) has absolutely NO business being suppressed in ANY manner, shape, or form.

To the greatest extent possible, I respectfully demand that the law be made to conform FULLY with the Constitution of the United States -- which grants freedom of speech and free enterprise, and which establishes the fact that ONLY an ACTUAL violation of Constitutional (and subordinate) law shall be prosecuted.