

Ian Turner
UCSC
Merrill College #471
200 McLaughlin Dr.
Santa Cruz, CA 95064

January 23, 2000

David O. Carson
General Counsel
Copyright GC/I&R
PO Box 70400
Southwest Station
Washington, DC 20024

Dear Mr. Carson,

I am very concerned that some interpretations of the DMCA will inhibit the ability to make fair use of media under 'free software' operating systems such as Linux. One example of this is the lawsuit brought by the DVD-CCA to prohibit the distribution of the 'css-auth' program, otherwise known as 'DeCSS'.

The problem here is that it is necessary to 'decrypt' the DVD data in order to play it. No player was provided for Linux, so without an unlicensed decryption program, our DVD players are so much scrap metal.

Even if a player were to be provided, however, many of us in the Free Software community refuse to run closed-source software. If a closed-source decryption software program were provided, there is no way to tell what it is doing. Maybe it is only decrypting DVDs to be played, but maybe it is reporting the contents of my computer back to the DVD-CCA. There is simply no way to know. So open-source players are necessary and important.

Now, the main use I have pointed out in this DVD issue is playing the DVDs. But it is equally important to note that there are other kinds of fair use. For example, what if I wanted to make a parody of some DVD? Without a decryption program such as css-auth, I would be unable to do so.

I would assume that you are very capable of extending this DVD example to DVD CSS encryption and copy-control products in general, so I won't bother showing how this affects other mediums. Instead, I would say that the only time that this part of the DMCA would take effect is if the software enabled only illegal copying. And frankly, it is unlikely that this would ever be the case. Since there are always legal reasons why one might want to copy something (backups being one example), I can't think of one circumstance where software could be used only illegally.

Thank you for presenting the community with a forum for addressing these issues.

Sincerely,

Ian Turner