

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

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TO WHOM IT MAY CONCERN:

I am a citizen of the United States of America and am concerned that my rights to the fair use of legally obtained intellectual property is being threatened by the Digital Millennium Copyright Act.

The particular issue regards the Motion Picture Association of America and the DVD Copy Control Association assertions that the Content Scrambling System is to protect the rights of the copyright owner. This case highlights the potential for abuse this clause provides.

The MPAA and DVD CCA have developed a Content Scrambling System which encrypts the content of a DVD movie and allows for the imposition of restrictions on the use of the media by legal users. The Content Scrambling System allows the restriction of fair use of the legally obtained and purchased material.

Under the Uniform Commercial Code regarding fair use of intellectual property it is noted that among other rights, the right to use the intellectual property in any manner that does not infringe on the rights of the copyright holder and in the case of digital media, archival backup of the material are allowed.

The Content Scrambling System is not a method to restrict copying of the DVD. A DVD may be copied in its encrypted form by commercial copiers and played on any DVD player. The Content Scrambling System does provide for an artificial limit on accessing the legally purchased medium if the medium and player do not have matching region codes. The region codes allow the distributor of the medium to artificially restrict the fair use of the DVD medium to provide for stratified pricing and delayed release of content.

For example, if a person traveling to the United Kingdom purchased a version of a DVD movie made for release in that region, the person would be denied fair use of that material if he/she attempted to play it in a DVD player with a different region. This kind of control of intellectual property does not appear to be what the original intent of Section 1201(a)(1) title 17, of the United States Code. Rather, this artificial limitation placed on the access of legally obtained intellectual property seems to violation of the right to fair use of a copyrighted work.

Please move to strike or modify the wording of Section 1201(a)(1) title 17 of the United States Code to provide for uninhibited fair use of legally obtained and purchased material. The right to fair use of a copyrighted work is essential to allow for truly free markets and economic growth.

Sincerely,
Anthony L. Awtrey