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

February 14, 2000

Dear Mr. Carson:

The Digital Millennium Copyright Act (DMCA) as it currently stands has provisions that have chilling repercussions on the fair use of purchased materials. In the past, if I purchased a piece of Software, a Compact Disk (CD), a Videocassette Tape, or any similar type of intellectual property, I was free to use it as I saw fit as long as it was for my own use. This means I was able to legally back up a purchased piece of software (even if it contained "copy protection") as long as it was for my use alone. Before the DMCA, a "cracked" backup was legal, as long as it was for my use only and I still owned the software. If I attempted to give away or sell that "cracked" copy, or if I sold my original copy and kept and used the "cracked" copy, then I was breaking the law and could be subject to penalties. This was fair to the owner of the software and to myself.

With the passage of the DMCA, "cracking" the copy protection of a piece of software in order to make a backup for personal use now would make me a criminal. Granted, most likely no one would ever know if I did so and kept it to myself, but the fact is that if I make that backup, I am technically in violation of the law. This is leading to the same type of erosion of respect for the law as the 55 MPH National Speed Limit did in 1974. I was a teenager in the 1970's when the CB and radar detector crazes hit, all due to the 55 MPH speed limit on the Interstates. Many people I knew purchased these devices in order to avoid traffic Cops while driving at a "more reasonable speed." It took 21 years, but the 55 MPH speed limit finally was repealed in 1995. The same type of thing will happen the DMCA, and if fact has already happened.

In late October of 1999, a programs designed to decode DVD's in Microsoft Windows and allow DVD's to be played on PCs using the LINUX were released to the Internet community. Since I do not own a DVD player, I had no use for these programs or no knowledge that they even existed until late December of 1999 when legal actions were taken against the DeCSS program by the DVD CCA, followed by the Motion Picture

Artists Association (MPAA) in January of 2000 against parties who had posted the DeCSS program and source code. The MPAA action was the first suit to invoke the DMCA. The two suits have resulted in the DeCSS code in being removed from the sites involved in the action, but have also resulted in the DeCSS object and source being posted on numerous sites around the world. There is now more knowledge about DeCSS by more people than ever. The greatest irony in the whole DeCSS mess is that people who wished to copy and Pirate DVD movies had the means to do so long before DeCSS was written. The end result is more number of people that have copies of DeCSS is far greater than if the MPAA and the DVD CCA would have kept silent.

In the days before the DMCA, those who would use DeCSS or any other piece of software or hardware to pirate DVD movies would already be breaking the law and could be fined and/or face jail time. The FBI has broken up illegal software and CD rings for years. Even with cheap videotapes available at the nearest Wal-Mart, most people I know (including myself) own several hundred dollars worth of movies legally purchased. My daughter's Disney Movie collection has netted the Disney Corporation several hundred dollars in itself, while our Star War Collections (original and 20th anniversary editions) have well contributed to LucasFilm's bottom line.

The provision of the DMCA prohibiting the breaking of copy protection is will make criminals out of ordinary people without contributing to the reduction of Piracy. I encourage you to get rid of this provision now and keep fair use of purchased materials intact. There are plenty of laws and remedies to combat Piracy without making having a side affect similar to the old 55 MPH speed limit – less respect for the law.

Thank you for your time.

Sincerely,
William E. Strebin