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Topic: Regarding Request for Comments

The Copyright Office is seeking written and reply comments from interested parties in order to elicit information and views on whether noninfringing uses of certain classes of works are, or are likely to be, adversely affected by the prohibition against circumvention of access control technologies.

Dear Sirs:

I am a 25 year Senior Sales Executive in the pc system distribution channel, and I have concerned myself with computer legal and ethical issues since I was mature enough to understand the implications of such issues. I say this not because I did not participate in the use and evolution of our technology before the mature age of thirteen, but because I began using computers well before I was capable of empirical ethical judgment. You ask the public in this case for our opinion on the fairness of this Millenium Copyright Act presumably because one constituent of that bill states that a company holds the right to prevent reverse engineering of their products for an ambiguous purpose. I do indeed see a critical fallacy inherent in what I understand to be the meaning of the bill, versus the intent of the legislators who approved the bill. The presumed intent of the clause is to protect copyrighted material from being unethically copied and distributed as authentic. The implications of the clause as stated is that software which might be deemed to be unable to perform a particular purpose may need to be modified by a third party programmer. The premier example of this is the Y2K rollover that we all recently witnessed. Had the software vendors that sold any of the numerous Y2K fallible software packages enforced their right to protect their products from reverse engineering, we would all have a lot of balancing to do on our checkbooks this year, to say the least!

I am sure that this is not the first time this example has been used, but let me set forward one more example I find common in the Value Added Reseller community that I service in my profession. Perhaps I sell a client a computer network, complete with network software to upgrade a manufacturing plant. Perhaps the plant has millions of dollars invested in proprietary factory hardware. At some point, the computer equipment that runs this hardware will need a customized driver to be written in order for it to work inside the proprietary software environment. This critical interface between industry standard computer and networking components and closed proprietary equipment will

presuppose the need for a customized software driver. This customized driver can be atained in three possible ways: a) encouraging the hardware vendor to write a proprietary driver, b) reverse-engineer the hardware to understand and create an entirely new proprietary driver, or c) reverse-engineer the existing standard driver to create a proprietary variation. These are all plausable solutions, but option c) is the clear and efficient (if not legal) method.

Regardless of the ethical and legal issues of these particular scenarios, the DVD / DECSS issue that seems to have brought this to light is a farce and a stretch of rational logic. I do not think that the clause in question was set into place to protect the global monopoly and unethical trade tactics of global monopolies like the MPAA. To think a 16 year old boy has been indicted on charges against our flawed DMCA is abhorrent. I trust that more people than I will speak out against that organization.

Please regard this letter as an acknowledgment that the limitations in the literal interpretation of the DMCA as it exists WILL and DOES conflict with our civic rights and other rights set forward previously as 'fair use' for the end user.