

Reply comment to comment from Time Warner Inc. dated February 11, 2000
from Tracy Camp Citizen of Oregon on February 16, 2000

In response to Time Warner Inc. comments submitted on Feb. 11, 2000
regarding Section 1201(a)(1) of the Digital Millennium Copyright Act
(Docket #7M99-7) I would like to submit the following reply comments.

Time Warner has argued that allowing for classes of use that allow circumvention of technological copy control measures would allow for rampant piracy of Time Warner's material. Time Warner further asserts that under no circumstance are they aware of a situation where a legal user of Time Warner's copyrighted material would "become unavailable to persons who desire to be lawful users." (point 4 of Time Warner's comment) This statement is clearly untrue and many examples can be produced. The example used by Time Warner is that of DVDs. I am a legal owner of a number of DVDs and have found the format to be enjoyable and readily purchase titles in DVD format. However I am also a user of non-Microsoft operating systems, specifically Linux and Sun Microsystems Solaris. I am not a legal owner of Microsoft Operating Systems and have no plans to become one. However the operating systems that I utilize on my computer systems are unable to play back DVDs. This is not because of any technological failing of the operating system but because of lack of application support for the DVD format. No licensed vendor of DVD technology has announced to my knowledge intent to support DVD on either of these platforms. However I as a legal owner of the DVD am entitled I believe to view the DVD on my computer system as users of Microsoft operating system do. One method around the lack of application support under Linux and Solaris is to create a 'clean room' application that mimics or duplicates functionality of Microsoft operating system applications. The phrase 'clean room' means that no proprietary information of a licensee of the targeted technology is used to create the cloned application. This is a standard computer industry practice and is responsible largely for the computer industry today. Creating application software that would run under Linux or Solaris does not in any way automatically allow for rampant copying of DVD formatted material as Time Warner has suggested. Rather it allows the legal owner of the DVD to use the DVD in its intended manner.

Addressing Time Warner's point 5 where Time Warner asserts that they are not aware of any situations that make a work "less available to persons who desire to be lawful users." I also take exception to this statement for the following reasons. As I stated above I own a number of DVD formatted titles and am currently viewing them on a computer system running a Microsoft operating system that is the property of my girlfriend. This has led in many situations to the inability to use many special features and portions of individual DVD titles due to software flaws in the player software supplied by licensees of DVD technology. By requiring me the lawful licensee of the DVD

title to use software which I have no personal ability to fix or influence quality of I often find myself unable to use all of the features of the DVD that I paid for. By allowing alternative player technologies to be developed under a 'fair use' class market competition for DVD player technologies will be increased and as a consumer I will be more able to influence the quality of DVD player products through market forces. This again in no way automatically leads to piracy of copyrighted works.

Addressing Time Warner's claim that allowing 'fair-use' that included reverse engineering copyrighted works would inherently lead to piracy of copyrighted material. I would like to point out that persons who intend to copy copyrighted works are in no ways law abiding citizens and will not stop their actions due to a legal restriction in lawful engineering practices. Time Warner has significant technological experience and will I am sure continue to provide new and exciting technologies but in no way does Time Warner have a monopoly on cleverness. In summary: "Where there is a will there is a way". There is no single or set of technological solutions that can ultimately prevent copying of copyrighted materials, this is why we have copyright law, so that Time Warner has legal recourse against those that practice unlawful use of Time Warner's intellectual property. Therefore I believe Time Warner's objections to allowing classes of use able to legal reverse engineer encoding schemes is more motivated by desires to control new markets (namely content presentation technologies) than to protect copyrighted materials.

In closing I strongly urge for the creation of classes of material that would be allowed under 'fair use' to be used freely by the legal license of the material in a manner they see fit rather than in a manner that Time Warner sees fit.

Sincerely,

Tracy Camp