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To whomever it may concern,

This letter is in response to the request for public opinion with regards to the rulemaking on exemptions from “the prohibition on circumvention of technological measures that control access to copyrighted works” as requested in Federal Register Notice - 64 FR 226 Docket No. RM 99-7.

It may be of relevance to point out that I am a programmer, data analyst, and PC support technician. I have professional experience in the realm of computers and computer programming for over twelve years and I have experience in educational institutions and in the public. I am well aware of what circumvention of technological measures that control access to copyrighted works means, and I hope that with this letter I may articulate to you what problems I see now and in the future with the DMCA.

I would like to use two cases to clarify my point. The first case is Sony v Connectix, case no. 99-15852. This ruling took place on Feb 10, 2000 in the US Court of Appeals for the Ninth District. In this appeal, the Hon Charles A. Legge ruled:

Connectix's reverse engineering of the Sony BIOS extracted from a Sony PlayStation console purchased by Connectix engineers is protected as a fair use. Other intermediate copies of the Sony BIOS made by Connectix, if they infringed Sony's copyright, do not justify injunctive relief. For these reasons, the district court's injunction is dissolved and the case is remanded to the district court. We also reverse the district court's finding that Connectix's Virtual Game Station has tarnished the Sony PlayStation mark.

The finding correctly illustrates that in this case Connectix did not violate the law when they reverse engineered the Sony BIOS, which allows the Sony Playstation to read it's copyrighted media. The actions of the Connectix engineers was in 'fair use' thus Connectix is protected, justly.

My second case is Universal City Studios, Inc, et al., v Shawn C. Reimerdes, et al., case number 00 CV 277 (LAK) in which the Motion Picture Association of America (MPAA) claims that anyone distributing or linking to anyone distributing a computer program named DeCSS violates Section 1201(a)(2) of the DMCA, which prohibits unauthorized

offering of products that circumvent technological measures that effectively control access to copyrighted works. Unfortunately I am not a lawyer, so I do not understand how the MPAA can make this claim when Section 1201 if the DMCA is not effective until October 28, 2000. It is excellent timing however, for this rulemaking on exemptions of the statute!

In the heart of this second case is the computer program called DeCSS. It is currently illegal to have even a hyperlink to this program on your website due to the injunction granted by Hon. Kaplan as mentioned above. To understand the relevance of this case, we must know a little bit about this DeCSS program. Firstly, CSS stands for Content Scrambling System and is used in Digital Versatile Disk (DVD) media. What this means is that the manufacturer scrambles the content of the DVD with the CSS. The manufacturer of licensed DVD players have a 'key' that decodes the CSS and allows for the playback of the media. The purpose of the CSS is to prevent the unauthorized playback of the DVDs. The unauthorized playback of these disks includes playback of a DVD encoded for one particular region of the world in another region of the world. It also prevents unlicensed players from being able to play back the DVDs.

It is in the best interest of the Motion Picture Association of America have this encoding on the DVDs so they can continue to effectively license every player manufactured and to license every DVD media produced. This is where the DMCS requires thorough definition and explanation.

In the latter part of 1999, a group of computer programmers decided to circumvent the CSS encryption on the DVD media so they could play back the data on a computer with the Linux Operating System on it. The need was there because to that point the only computers that could play DVD media were Apple Macs and Microsoft Windows computers. The MPAA had not authorized any players to play DVD media for computers with Linux, Unix, BeOS, or BSD operating systems. (These operating systems are very popular among programmers and computer hobbyists as well as the common desktop PC user.)

The encryption was successfully reverse-engineered and the resulting program called DeCSS was distributed via the internet. DeCSS only decrypts the data stream from the media, it does not facilitate the copying of DVD media. It is important to understand this in order to interpret what the DMCA means in the "prohibition on circumvention of technological measures that control access to copyrighted works". Does the Congress of the United States of America want to protect the MPAA in controlling how people watch the DVD media in which they purchased? Or does the Congress of the United States want to promote interoperability and allow for the reverse-engineering of a technological measure that controls access to a copyrighted work in order for people to watch the media which they purchased on a player which they purchased? In trying to protect their copyrighted investment in the media, the MPAA may be crossing the line in the rights of every American to watch a movie. This case is not about piracy, anyone can copy a DVD whether it is encrypted or not! Piracy of DVDs is not the issue at all, the issue is how much control can a company have over a product that a consumer purchases.

I urge the Library of Congress and all those that may read this letter to keep in mind that although copyrighted information should be protected, the rights of the common man should be recognized and protected as well. As it is illustrated in the two cases that I have cited, the “the prohibition on circumvention of technological measures that control access to copyrighted works” must have exemptions! Different forms of ‘reverse engineering’ is very necessary in this digital age that we live in, and it should be protected if done in ‘fair use’. Furthermore, ‘fair use’ must be well defined, and the circumvention of technological measures that control access to copyrighted works must be analyzed *carefully*. It should be obvious that if one bypasses a technological measure that protects a copyrighted work, but does not actually violate the copyright, then the individual is not committing a crime. Preventing the violation of copyrighted materials is very important, but this should not be confused with preventing actions that *may* lead to violation of copyrighted material, or *may* not. I can easily decode a DVD with software that is not licensed by the MPAA, but I am not copying it, I am watching it which is definitely within the boundaries of ‘fair use’. Please make sure that consumer rights are protected, I am sure you would not enjoy being incarcerated for reading a copyrighted book without the *licensed* eyeglasses that the publisher requires!