Hi! My name is Peter Seebach. I'm writing as one of those rare people who registers shareware, and as a person who has gotten paid for creative work in the past, and expects to get paid for it in the future.

My comment is this: It is simply unthinkably stupid to try to prohibit anything that *COULD* be used to violate copyright. Digital media have the wrong characteristics for this. If you have a stream of bits, you have a thing which can be copied. If there is *ANY* representation that can be "viewed" by a legitimate user of the copyrighted material, that representation can be copied, and viewed later. This cannot be changed; it's simple mathematics. *YOU CANNOT CHANGE IT*. The problem with this law is that there's no way to tell the difference between a legitimate decoding and a prohibited one.

Let's look at the DVD-decoding software. Is this software illegal? I certainly hope not.

Can I view a DVD I have purchased? Certainly; that's just "fair use". To view it, I *must* decode it. Thus, I *must* have the right, already, to decode that DVD for the purpose of viewing it. The DVD player I have, made by Sony, "decodes" the DVD video stream. The DVD player that came with my Power Macintosh "decodes" the video stream. Would it be possible for a would-be thief to "steal" the "decoded" video on my Macintosh? Certainly.

Now, let's say I want to view my DVD on a Linux system. Do I have the right to do this? I *must*, because viewing the DVD is fair use.

The problem is that the motion picture industry, always quick to jump on anything that smacks of a loss of control, is afraid that I will somehow use the ability to view a DVD I have bought and paid for, and I will turn it into some kind of shady theft. How I'm supposed to do this is unclear.

Right now, it is possible for someone with a DVD writing device to make a perfect copy of a DVD movie, and view the copy on any player. This, I agree, sounds like theft, but it's arguably permissible under the "backup copy" rules generally used for media.

If people were to make illegal copies of movies, and distribute those copies, I would see grounds for action.

I have a computer which can run Windows. If I load Windows on it, I can play a DVD on it. Why is the motion picture industry afraid of me being able to do the same thing if I don't run Windows? If I run Linux, I should still be able to view my movies.

There is simply *NO* connection between illegal copying and legitimate,

fair-use, decoding of DVD movies that have been legitimately acquired.

As a general rule, the DMCA seems to be ill-considered. By the nature of the medium, digital media are infinitely copyable. Copy protection is simply not a technically viable solution. Any reasonable use of a piece of digital media will be technically *IDENTICAL* to an attempt to "break the copy protection"; you simply can't draw that line in any rational way. The end result is that the "unencumbered" stream of data which represents the artistic work in question must be generated and used by the computer; once it is in this form, it is possible to copy it. If it is not in this form, you can't listen to it, watch it, or use it in any way.

If we're worried about widespread illicit copying, let's take reasonable actions to prevent it. Lawsuit threats against people who are *NOT* making illicit copies are *NOT* reasonable actions.

Fundementally, I believe this goes to the heart of the legal system. You must be treated as though you are innocent of a crime until you actually commit one. I carry a Swiss Army Knife. It is physically possible for me to kill someone. However, it is not illegal for me to own this knife, because I have not, in fact, killed anyone. I wish to use DeCSS-derived software to view DVD's which I have bought. It should be legal for me to do so, because I have not, in fact, made any illicit copies.

Let me follow the DMCA a little further. I have a very old version of SimCity for one of my computers. The program came with copy protection, specifically, a little "code sheet" you needed to have to play the game. This "code sheet" could not be copied on consumer-level copiers when the game came out.

It can be copied on modern copiers, therefore, they *CAN* be used to circumvent copy protection. Better have the BATF blow up a few Kinko's, make sure people get the message. :)

The DMCA is broken because it cannot distinguish between a thing which *CAN* be used to commit a crime, and the commission of a crime. Do we ban cars because people have been hit by them? Do we ban pets because some people are cruel to their pets? No, no, no. A *thousand* times no! This is America, for crying out loud. Our ancestors fought (and many *DIED) for the BASIC, UNALTERABLE, RULE:

Innocent until proven guilty.

By extension of this basic principle, it is obvious that having the *ABILITY* to commit a crime is *NOT* criminal behavior, and *CANNOT BE* criminal behavior.

Pursue the criminals; let the rest of us get on with life.

Thank you.