17 February 2000

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

Dear Mr. Carson:

I am writing to give my comments on the DMCA and the current DVD/DeCSS issue.

My name is Charles Benson, and I reside at 1241 Jefferson Drive, Atlanta, GA 30350. My home phone number is (678) 731-9126, and my email address is cnbenson@alumni.wfu.edu

The opinions expressed in this letter are my own, and in no way reflect the opinions of my employer.

The majority of my information on the issue has come from news reports and from reading the text of the preliminary injunction hearing against a couple internet sites for "linking" the DeCSS program from their webpages.

My understanding is that the decryption algorithm and practical application was developed as one step in the course of creating a software DVD player for the Linux operating system. The DVD industry appears to be claiming that they want to prevent all but licensed manufacturers of DVD players (software and hardware) from decrypting and playing the movie files. It is also my understanding that all players make temporary decrypted copies of these files in order to facilitate playback.

If restricting the ability to play lawfully purchased DVDs is legal, and does not violate some aspect fair use, then I suppose there is nothing more to say. However, if the owner of the copyrighted material on the DVD does not have a right to restrict on what kind of machine the material is played, then DeCSS itself should not violate any laws.

As I understand it, the DMCA makes illegal the circumvention of an encryption scheme the protects copyrighted material - except for legitimate and legal use of that material. DeCSS used in this form (as a required component in a DVD player) should be legal.

I will concede that the use of DeCSS solely to decrypt the movie files with the intent to make illegal use of the copyrighted material should remain illegal. However, given the open-source nature of the Linux operating system (the underlying source code for the operating system and programs that run on it are freely available to anyone, promoting the rapid development of new software by widely geographically separated individuals), individuals should have the right to publish the source code for DeCSS in order that others might continue the development of a Linux-based DVD player.

Thank you for giving me the opportunity to provide my comments on this issue.

Sincerely,
Charles N. Benson