

Benjamin J. Stassart
1620 Canton Dr.
Milpitas, CA 95035
(408) 941-0839
<stassart@dragonpaw.org>

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

By e-mail: 1201@loc.gov
Comments on 17 USC Section 1201(a)(1), Digital Millennium Copyright Act

Dear Copyright Office:

I would like to comment on section 1201(a)(1) of the Digital Millennium Copyright Act that is under review. I believe that the violation listed in subparagraph (A) should be determined to have adverse affects. These include the availability for use of copyrighted works; the availability for nonprofit archival; application of teaching, and research; and the market for copyrighted works.

The enacting of the Digital Millennium Copyright Act 1201(a)(1) will have harmful affects on the availability for use of copyrighted works. The recent example would be the Motion Picture Association of America filing injunctions against those individuals distributing the DeCSS program. This program did not enable people to copy DVD disks, they could already do that. This program allows users to view DVD disks without using the software that the Motion Picture Association distributes. The Motion Picture Association is using the Digital Millennium Copyright Act in order to prevent non-infringing use. Consumers should be allowed to display legally obtained copyrighted materials in the way they see fit. If this is under an alternative computer operating system, this should be allowed and is non-infringing use that is disallowed under section 1201(a)(1).

Section 1201(a)(1) has unfavorable affects on nonprofit archival. A library that has legally obtained a DVD disk may not circumvent the copy protection in order to make a copy under fair use laws that would enable them to replace the DVD disk after it goes bad after a number of years.

Section 1201(a)(1) has adverse affects on teaching, and research. Continuing the DVD example, a professor is not allowed under Section 1201(a)(1) to circumvent the copy protection to include a small part of a DVD disk in a class lecture. A researcher studying the affects of movies on children could not create their own video containing parts of various movies.

Section 1201(a)(1) harms the market of copyrighted works. It allows companies to create technological measures that would allow them to charge per use. It allows them to create technological measures so that they can geographically separate the market. For example, if a movie is purchased in Nebraska where they charge less, it could not be played in California where it costs more. What if someone bought a disk when they lived in Nebraska and then moved to California? They would no longer be able to play the movie they purchased.

I hope that the Library finds that this section has too many harmful affects and decides to send a message to Congress that this is unacceptable and takes no measures to protect fair use. I fear the amount of money that will be spent on lawyer fees otherwise.

Sincerely,
Benjamin J. Stassart