

## Citizen Response to the Request for Comments on the DMCA

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In the MPAA and Sony responses to the request for comment they use their trademarked and copyrighted symbols on the page. In my understanding of the DMCA my viewing of their comments constitutes the use of their symbols. Had I printed the comments in order to share them with my friends, family, or coworkers, I would be using their copyrighted symbol without prior permission to make an electronic copy.

I like many of the respondents am a user of Linux and Unix, which do not have available reliable DVD support. Furthermore, the concept of "reverse engineering" in a "clean room" environment is what has been used by Microsoft, Apple, and others in developing software. This methodology was used in the development of MS-DOS, the Windows operating system, and the Mac OS. This has contributed to the growing and development of the computer industry and the Internet.

Fair use of copyrighted works in my opinion include the following:

Personal Backup Copies of valued items - Currently the makers of computer software, video (DVD, VHS, etc), and so on limit the time frame for available items. In time any media will deteriorate. Recently I attempted to replace several copyrighted works I have a legal, original copy of, and was unable to find the items available in any retail location in my area. These items include the original Star Wars Trilogy, several children's movies by Disney, some older video games that I own, and others. If the producers of copyright want my personal, not distributed, backup copies, they should make available a means to acquire replacement copies. This could be accomplished through a exchange program, however, the cost should be minimal to the consumer.

Reverse Engineering in a Clean Environment - This is the basis of what has made the consumer PC possible. The price of items is driven down by competition, however in the environment laid out by the MPAA, Sony, and Time-Warner. The threat of litigation for the infringement of copyright protection as defined by the DMCA would effectively stifle competition. If I were a company or individual looking to develop an application for the Linux platform in order to allow the playback of DVD titles for example, I would have second thoughts based on the possibility of being sued. For those in doubt that this will occur, they should look at what has occurred.

Library Access - As the Library of Congress and the Library association have stated very clearly the potential affect on Libraries of the DMCA.

Cryptographic Purposes - Through the use of cryptology, several privacy concerns have been unmasked in several digital media forms. These include Realnetworks, Microsoft, America Online, Doubleclick Internet advertising, and others. Such investigation of Consumer Privacy concerns should be protected. However, due to the vagueness of the DMCA, they are not.

The comments in support of the DMCA do point out that they do not intend to prevent fair use, or stifle development. However, such comments are in contradiction of what recently accorded with a Linux/DVD development. In actions that are currently pending against an individuals in Federal, and state

courts over the decryption of the CSS encryption code in order to create a playback method for Linux illustrate this. The cases have been brought on the basis of piracy, however, it is not necessary to DECRYPT the code in order to copy it. Opendvd.org covers a good analogy of what they are referring to: A DVD movie is like a long code, to read it you need a decoder ring, but to copy it you just need to photocopy it. While this may not be what is intended by the plaintiffs, this is indeed what is occurring.

These are the most pressing concerns I have in regards to the issues related to the implementation and rulemaking in regards to the DMCA.