

18 December 2002

I wish one of the accepted posts were available to review. I'm doing my best to comply with the format as I read and understand it. I submit the following for your review and thank you for the opportunity to present my comments.

Sincerely,  
John C. Gale  
4509 Belvoir Drive  
Greensboro, NC 27406  
336.256.0264  
[jcg1@uncg.edu](mailto:jcg1@uncg.edu)

#### LIST OF EXEMPTIONS:

(1) Audio - including CDs, DVDs, tapes, records, streaming technologies (such as, but not restricted to "realmedia" or quicktime), all file formats (such as but not restricted to mp3s, ogg vorbis, mpeg, divx), and any other storage device (such as but not restricted to PVRs, PDAs, computer hard drives, mp3players, solid state storage) and any other recorded media (analog or digital)

(2) Video - including DVDs, laser disc, CDs, VCR tapes, streaming technologies (such as, but not restricted to "realmedia" or quicktime), all file formats (such as but not restricted to mpeg, divx), and any other storage device (such as but not restricted to PVRs, PDAs, computer hard drives, mp3players, solid state storage) and any other recorded media (analog or digital)

#### REASONS AND EXPLANATIONS FOR EXEMPTIONS:

(1) This section of the DMCA [17 U.S.C. 1201(a)(1)(A) (1998)] is written such that it restricts the rights of a person who legitimately obtained the audio recording and therefore all classes of media for an audio format should be exempt if the abuses of this restriction cannot be curtailed.

#### TITLE 17: CHAPTER 1: Sec. 117(a)(1) of the US Code.

This section properly covers the essential processes of utilizing programs on computers (complex electronic devices that arguably anything with microprocessors [most playback devices and appliances] would have such status).

Why is the DMCA circumventing the law on copyright? Playing audio involves this exact process of decoding (and copying the data to a buffer) prior to directing the audio to its output (usually speakers). The copyright law allows for this essential need. While it would be better to have this section of the DMCA repealed, the only other logical choice is make audio information exempt.

#### TITLE 17: CHAPTER 1: Sec. 107(4) of the US Code.

The fair use clause allows for reproduction of a work under certain conditions. Subsection 4 is arguably the most important as it requires the consideration of the effect of this copy on the value of the work.

If the work was properly purchased, what possible negative effect is placed on the work by allowing the purchaser to play this same recording on the player of his/her choosing for the sole purpose of his/her private use? The answer is it has no negative effect... even if the listener has to copy it from the original recording to the audio playing device (like an ipod).

I am not arguing that music should be free, that there shouldn't be copyrights or anything of the like. I am arguing that the rights of the purchaser are being removed by my government! If I chose not to buy records from some draconian and bullying entertainment conglomerate, a small company could grow and fill the niche of leaving me with the rights due a legitimate customer. However, this is no longer possible since I am subject to the DMCA even if company concerned with my rights and preserving my freedoms is selling me a recording.

Imagine for a moment that you lose all rights related to recordings. You have to play it on a specific player. The player licensed to decode it might be sold only by the recording vendor or perhaps it is only sold through one computer software company. It would be illegal to play the recording on a player or the PC I own, I'd have to get a different one. THAT is ridiculous. If you think this isn't going to happen, you are mistaken. This law is written such that the player can be dictated to the consumer as it is the only method allowed to decode the work. Legally the consumer won't be able to use a different player and manufacturers of alternative players will likely get sued for circumvention of the "protections" put in place.

The only way to preserve fair use is to support the exemption of all media from the DMCA bill which tries to supersede other, better written, laws like those of copyright law.

(2) same as reason number 1.