

Copyright laws were created by the public to serve the interests of the public as a whole; copyright is a right granted by The People to encourage creativity that would not otherwise occur. Copyright laws are NOT supposed to be a weapon wielded by giant multinational entertainment companies for the purpose of maximizing profit.

The Judicial branch of our government has historically refused to maximize the profit of these corporations at the expense of the average citizen. Case law shows that the courts have consistently recognized the basic rights of fair use and reverse engineering. So the wealthy corporations went to Plan B: lobby Congress, donate campaign money, and receive in return a law (the DMCA) which EXPLICITLY strips away our basic rights.

It didn't take them long to unsheathe their new bludgeon. The ironic part is that they are using it to attack their own customers! Several industry consortia have gone to court to use the DMCA to prevent their own paying customers from circumventing the access control on copyrighted materials they have legitimately purchased. This reverse engineering was done for interoperability---without it, the copyrighted materials were inaccessible, despite the fact that they were bought and paid for. And the lawsuits were brought despite the fact that no illegal copies were ever made!

The Copyright Office would like to know if certain classes of copyrighted works should be exempted. I say that if you are the legal owner of a copy of any kind of copyrighted work, you should be able to circumvent the access control all you want. The act of PAYING for the work represents a grant of complete access. How can a company sell a product and then dictate how it is to be used after the sale?

Therefore, a reasonable rule for dealing with the DMCA would be to interpret it as follows:

"No person [other than the lawful owner of a copy of a copyrighted work] shall circumvent a technological measure that effectively controls access to a work protected under this title."

This way, when the Library of Congress (or anyone else) purchases a copyrighted work, fair use of that work is protected. Simultaneously, holders of illegal copies can still be punished under the law. This is a fair balance. Don't hesitate to rule in favor of a fair balance: remember that copyright law exists to benefit SOCIETY, not to maximize the already tremendous profits of large entertainment corporations.

As for the "prohibition in [the] ability to make noninfringing uses," mentioned in your request for reply comments, it goes without saying that paying customers will be "adversely affected" by this prohibition in all cases! How can copyright holders possibly prohibit noninfringing uses?

Congress should have thought long and hard before handing over total control of public policy to the massive, wealthy, greedy entertainment industry.

Jason G. Fleming