

Comments on the effects of the amendments made by title 1 of the Digital Millennium Copyright Act, ('`DMCA') and the development of electronic commerce on the operation of sections 109 and 117 of title 17, United States Code, and the relationship between existing and emerging technology and the operation of such sections.

I am opposed to prohibiting the circumvention of technical means of securing copyrighted material. The copyright is a legal protection for intellectual property that should stand on its own; the technical means of enforcing copyright should not be protected in any special way because there are already sanctions for those who violate copyrights regardless of technical means of protection.

The copyright protection of intellectual property (IP) has been conceived to serve the public good; the fact that it offers significant advantages to the producers of IP is only a mechanism for achieving the progress in the arts, science and industry. Consequently, the constitution requires that the copyright law has to balance the rights of producers and consumers. Traditionally, this balance has been guaranteed by 'fair use exceptions', rights guaranteed by 17 USC 109 and 114, time-shifting, right to quote copyrighted material for scholarly purposes, etc.

The commercial interests began already using DMCA to expand their control over distribution, seeking to destroy the freedoms and rights that are firmly established in the law of the land and in the minds of the consumers. In particular, the rights guaranteed by the 'first sale doctrine', as well as rights to administer the system (backup, copying, etc) are just some examples of the liberties that are taken away.

I reiterate: the anti-circumvention rule does not protect IP---it is already protected by the previous law. Instead, DMCA protects the control of delivery of IP. For instance, the content brokers can prevent the consumer from fast-forwarding over commercial advertisements included in the IP that the consumer purchased.

The fair use rights have always been under attack by the cartel of large content brokers. They do not directly refuse us these rights, of course: instead, they began to exploit the anti-circumvention provisions of DMCA by inventing inept protection systems, whose only purpose is to establish a straw-man copyright protection system, and accuse those who point out weaknesses in these systems of violations of anti-circumvention provisions.

There is a provision of DMCA that states that the fair use exceptions are not supposed to be impinged by any other provisions of the act. This is in direct contradiction to the anti-circumvention provisions, which are being actively prosecuted by the content brokers (e.g. in the DeCSS case), in the hope of practically preventing the exercise of fair use rights.

I protest this backdoor usurpation of unprecedented control of copyrighted material by large content broker corporations. It is contrary to the intended role of copyright in promoting original contributions by protecting the authors' rights. Strict enforcement of anti-circumvention rules does little good for authors' or consumers'

rights; it only provides unjustifiable control to the large content broker corporations.

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