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To: LIBRARY OF CONGRESS
The United States Copyright Office

DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration

Comments on the Digital Millenium Copyright Act (DMCA)

The DMCA shifts the line between lawful and unlawful behaviour from copyright (the act of copying a protected work) deeply into engineering (the act of constructing, analyzing, reconstructing, improving, extending, or otherwise manipulating devices and algorithms that can be used in access control).

Many engineers probably feel that while this legislation has been enacted with much good will, it has not sufficiently considered the impact on the disciplines of engineering in general, and software and encryption in particular. DMCA is written as if there were access control measures as a separate entity, entirely disconnected from other types of technology.

As a professional engineer, I am not able to see such a clear line of distinction. The area of algorithms is vast, and many single computer algorithms and methods could potentially be used in access control devices. DMCA allows any interested party to use such a method in access control devices, thereby potentially drawing use, research, publication, etc. of the method out of legality. While this statement may seem exaggerated, I have yet to meet the person who can draw a clear line between an 'access control device' and a generally usable computer method. I think that none can be established, and attempts to do so are misguided and will result in a very unclear situation that harms the engineering disciplines.

DMCA fails to put an obligation on the creators of access control devices to ensure that the devices serve only their primary purpose, before putting them under this special protection. It is questionable whether access control devices can be constructed with today's technology which have exactly the right scope. In the absence of well

designed devices, DMCA should not protect access control devices beyond their primary use. Specifically, DMCA should not allow access control devices to act as a single point of entrance to a technology, thereby creating an artificially privileged group of technology providers in the market.

Society needs to find a way to resolve the questions of copyright in the digital age without a proxy war carried out in the engineering fields. That avoids the basic discussion about the right notion of property and about proper use of copyrighted materials.

Opinions stated above are strictly mine. In no way do I represent or speak for my employer, and I do not know my employer's positions on the subject.

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