

PROTECT FAIR USE:

Reform the DMCA

By: Jessica Rachoza

The Copyright Act of 1978 was intended to encourage creativity and innovation while protecting the rights of authors. Technological advancements from the last two decades have created great challenges to copyright law. Intellectual property is vulnerable in a world of mass communication and digital technologies. The Internet lacks boundaries and any form of a fixed, concrete "space." Cyberspace threatened to destroy the balance between copyright owners and consumers. There was a great need for new laws and controls to adjust to the new digital world. However, the new rules and regulations were formulated from only one side of the issue. Corporations and big business pushed and rushed into law the Digital Millennium Copyright Act. "The current corporate control over our technologically based culture has an ominous feel to it because these private owners of our common cultural life have succeeded in removing the concept of culture from a pluralistic dispersement of esthetic ideas, born and realized by individual creative impulses, and given it over to fewer and fewer corporate committees of molders and marketers who are driven only by an over riding need to maintain an ever rising bottom line fro their shareholders in the culture market."¹ Our culture, which relies upon fair use, dissemination of information, and free appropriation of works, has been sacrificed in order to increase the bottom line.

With its en-action in 1998, the Digital Millennium Copyright Act (DMCA) has eroded the nature of copyright law and the fair use doctrine. "The DMCA tilted the balance in the Copyright

¹ Negativland. "Changing Copyright." Retrieved 3 November 2004.
<www.negativland.com/changing_copyright.html>

Act toward complete protection and away from information availability.”² It punishes the innocent. The scholars. The innovators. The fair users. It inhibits and controls artistic freedom, growth, technological advancement, innovations, and competition and must be reformed to protect the fair use rights of everyone. Two bills currently in Congress, H.R. 107 and H.R. 1066 would amend the DMCA, safeguarding fair use and correcting the language of the act in order to prevent misinterpretation and misuse.

This paper will begin with a discussion of copyright law and the importance of fair use. Followed will be an analysis of the Digital Millennium Copyright Act and the problems stemming from the legislation, including a discussion of court cases which have invoked the DMCA. The proposed amendments to the DMCA will then be interpreted and explained.

The Copyright Act & the Fair Use Doctrine

Copyright Act of 1978

Copyright laws were created to protect the original works of authors, including literary, dramatic, musical, artistic and other intellectual works. The protection pertains to both published and unpublished work. In the original law, works not protected include those that are not in any tangible form; including ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration.³

Fair Use

Writers and artists use each other’s works as inspiration. Ideas and theories are expanded, design techniques and styles are reused in other forms, and appropriations are made to existing works. “It is precisely this growth in creative expression, based on the dissemination of other creative works and the unprotected ideas contained in those

² Boucher, Rick. “Time to Rewrite the DMCA.” January 2002. 1 November 2004.
<<http://news.com.com/2010-1071-825335.html>>

³ For additional information or questions about copyright, visit the U.S. Copyright Office
<www.copyright.gov>

works, that the Copyright Act was intended to promote.”⁴ The fair use doctrine becomes very important to those wishing to avoid copyright infringement. The formulation of the law has developed due to the need to articulate what is legal when creative works appropriate the work of others.

Fair use was first cultivated by judges to decide individual, specific cases but it soon became a part of the copyright statute itself. The fair use doctrine offers guidelines for determining when the law applies. Section 107 of the Copyright Act of 1976 states:

“The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means... for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.”⁵

Court Cases

A 1984 court case, *Sony Corp of America v. Universal City Studios*, found VTR equipment and use to be fair. In the infamous “Betamax” case, Universal sued Sony alleging copyright infringement with Sony’s manufacturing and sale of video tape recorders. Justice John Paul Stevens stated, “The sale of copyright equipment... does not constitute contributory infringement if the product is widely used for legitimate, unobjectable purposes, or, indeed, is merely capable of substantial non-infringing uses.”⁶ The courts concluded the general use of the Betamax video tape recorders by the public

⁴ Samuels, Edward. *The Illustrated Story of Copyright*. (New York: St. Martin’s Press, 2000), 202.

⁵ 17 U.S.C. §107 (1978).

⁶ 464 U.S. 417 (1984).

is a fair use and uses involving infringement would be decided on a case by case basis. Sony, and other manufacturers of such technology, would not be liable for how the technology was used. If VTRs had been determined to be copyright infringement, VCRs or DVD players might have never been introduced, along with countless other technologies which evolved from or were inspired by the original video tape recorders.

Maztone-Graham v. Burtchaell was a case decided in 1987 in which the fair use defense was upheld. Burtchaell wrote a book and requested to use excerpts from a book written by the plaintiff years before. The Maztone-Graham book was based upon interviews with women about their pregnancies and abortions. Burtchaell's request to use excerpts was denied, but he wrote and published his book any way, using the fair use defense. The use was determined to be fair because, although it stood to have commercial gain, it was intended to educate others about abortion and the author's views. The interviews in which Burtchaell excerpted were factual information and only a small amount was actually used. Burtchaell's book also did not hurt the market for the original; in fact, the original had been out of print for several years. The fair use defense was upheld because it was the only effective means for the author to build meaningfully from the scholarly work of another.⁷

In 1994, 2 Live Crew's parody of Ray Orbison's song "Pretty Woman" was found to be protected under fair use in *Campbell v. Acuff-Rose Music, Inc.* The Supreme Court originally did not find the spoof to be of fair use, but remanded this case to the lower courts to make their own determination, which found the parody to be of fair use because the song did not affect the market for the original and only enough material was lifted in order to conjure up the original song. The court opinion made clear the "Court's

⁷ 481 U.S. 1059 (1987).

tolerance for parodies.”⁸ The opinion of the court articulated that the parody must be obvious to the audience, must reproduce no more of the original than is necessary in doing so and must not destroy the market of the original piece. Parody today is often a source of social, cultural, and political criticism as well as a form of entertainment. Without fair use, such criticism would not be possible.

Significance of Fair Use

Justice Sandra Day O’Conner stated “the primary objective of copyright is not to reward the labor of authors, but to promote the progress of science and useful arts. Copyright assures authors the right to the original expression, but encourages others to build freely upon ideas and information conveyed by a work.”⁹ The fair use doctrine was added to the Copyright Act to further increase the dissemination and creation of knowledge. Fair use is a result of society’s need for free exchange of ideas balanced with intellectual property interests of authors.

Fair use rights are very important in a number of genres. Researchers depend upon the work of others in order to encourage their own. Innovation and new technologies stem from the use, re-use, exploration, and appropriation of existing works and technologies. Students and teachers rely on fair use to make copies, create course packs, etc. Our libraries depend on fair use to create archives and electronic databases. Writers and artists look for inspiration from existing works. Creativity flourishes and knowledge progresses due to the fair use doctrine. Many of our daily activities are affected by fair use as well, such as recording your favorite television show, making a copy of a CD, or printing an article from the Internet. Fair use has become so ingrained into our lives; we don’t notice it until the rights are taken away.

⁸ Samuels, 200.

⁹ 499 U.S. 340, 349 (1991).

The Digital Millennium Copyright Act

DMCA Legislation

There is no debate regarding the issue of amending the original Copyright Act to take into account new technologies and the use of the Internet. Laws were needed to provide copyright protection in the digital age and the DMCA was to be the solution. The act contains five titles.

Title I implements two World Intellectual Property Organization (WIPO) Copyright Treaties. The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) require countries to provide protection to certain works from other countries or created by nationals of other countries. The protection must be no less favorable than that accorded to domestic works. The treaties identify needs to prevent circumvention of technological measures used to protect copyrighted works. The DMCA went beyond the requirements of the WIPO treaties. Section 1201 contains two prohibitions banning acts of circumvention and the distribution of tools and technologies used to circumvent. However, clause 1201(c)(1) states "that nothing in section 1201 affects rights, remedies, limitations or defenses to copyright infringement, including fair use."¹⁰

Title II, the Online Copyright Infringement Liability Limitation Act creates limits on the liability of online service providers in terms of copyright infringement. The provider is not liable if they had no knowledge of infringing activities on websites hosted from their systems, but is required to take down or block the material once notice is given of copyright infringement. If the service provider does not comply, they will be held liable for said infringement.¹¹

¹⁰ H.R. 2281 *The Digital Millennium Copyright Act of 1998* retrieved 1 November 2004 from "THOMAS: Legislative Information on the Internet" <<http://thomas.loc.gov>>

¹¹ Ibid

Title III, Computer Maintenance and Repair permits copying of computer programs or code when activating a computer for the purposes of maintenance or repair.¹²

Title IV addresses miscellaneous provisions relating to the functions of the Copyright Office, distance education, the exceptions in the Copyright Act for libraries, and for making ephemeral recordings, "web casting," and transfers of rights in motion pictures. These provisions address circumvention technologies and expand copyright liability to pertain to digital formats and the Internet. Exemptions for libraries are also laid out, detailing that only three copies of any work, digital or not, are permitted for library archives.¹³

Title V, the Vessel Hull Design Protection Act creates new protections for the design of vessel hulls. Original designs which are attractive and distinctive in appearance are protected for ten years and registration for protection must be made within two years of the design being public.¹⁴

Problems in the DMCA & Relatable Court Cases

All of the information gathered and quotes used in this section were obtained through the Electronic Frontier Foundation.¹⁵

The Digital Millennium Copyright Act was rushed into law and pushed by corporations and lawmakers without adequate consultation and input from intellectual property owners. Overall, the law is unclear and has led to misinterpretations. The DMCA has no thresholds or limits and it being misused.

¹² Ibid.

¹³ Ibid

¹⁴ Ibid.

¹⁵ Electronic Frontier Foundation. "Unintended Consequences: Five Years Under the DMCA." 7 November 2004. <http://www.eff.org/IP/DMCA/?f=unintended_consequences.html>

The problems in the DMCA stem from Title I, Section 1201. Specifically, Section 1201 hinders free expression and scientific research, jeopardizes fair use, and impedes competition and innovation.

Hindering Free Expression and Scientific Research

The legitimate activities of journalists, publishers, scientists, students, programmers, and members of the public are being stifled by the Digital Millennium Copyright Act.

Princeton Professor Edward Felton and a team of researchers responded to a challenge by the Secure Digital Music Initiative to try and defeat watermarking technologies designed to protect digital music from being pirated. The research team was successful and intended to publish their findings and present at a conference. Secure Digital Music Initiative threatened Felton and his team with liability under the DMCA. After numerous meetings between the two groups, Felton and his team withdrew from the conference. The DMCA liability threat was later withdrawn and parts of the research were presented at a future conference. As a result of this case, at least one researcher has chosen to avoid such further research in the future.

In 2001, Russian programmer Dmitry Sklyarov was arrested and jailed after presenting at the DEFCON conference in Las Vegas. He had been working on a software program, the Advanced e-Book Processor, which would allow e-books to be converted into Adobe Portable Document Format. Sklyarov was never accused of copyright infringement. His crime was creating a program in which third parties (whom he did not know) could potentially use to copy e-books without permission. Sklyarov was later acquitted of all charges. Just because a technology has the potential to be misused, does not mean it should be illegal and our courts have already come to this conclusion in the 1984 Betamax case. The case law established in 1984 is applicable and should be used with today's technological advancements as well.

Following the cases of Professor Felton and Dmitry Sklyarov, programmers have withheld research or quit their work all together out of fear of DMCA liability. Respected programmers and researchers whose work is very important in a number of fields including science and security information have been halted due to the DMCA. Foreign scientists are avoiding the United States and many conferences have been moved off American soil, as well. The freeze in research has only led to decreased amounts of scientific discoveries and weakened computer security for all users.

2600 Magazine was censored and it's First Amendment rights thrown out the window under a DMCA case. Eight major motion picture companies sued *2600 Magazine* in an attempt to block the magazine from publishing the DeCSS software. The DeCSS code defeats encryption used on DVD movies. *2600* was not involved in the development or use of the software. Their only crime was making the information available to others, which is protected under the First Amendment's guarantee of free press. The code was legally obtained and *2600 Magazine*, itself, was not using the code illegally.

CNET News reporter, Declan McCullagh, halted his work out of fear of DMCA liability. He came across public documents on the Transformation Security Administration website which he wished to use. A password was not needed to download the documents but the site contained a note that stated that this "information is restricted to airport management and local law enforcement," and a password was needed to open and read the documents. McCullagh obtained the passwords from a legal source, but feared his use of them. "Journalist traditionally haven't worried about copyright law all that much. But nowadays intellectual property rights have gone too far, and arguable interfere with the newsgathering process," stated McCullagh. The DMCA has halted research and the fair use of available information. The law only hinders the public since necessary, important information is being locked away.

Jeopardizes Fair Use

“While stopping copyright infringement is an important policy objective, Section 1201 throws out the baby of fair use with the bathwater of digital piracy.” Fair use was cultivated as a necessary addition to copyright law in order to protect non-infringing uses from liability. The DMCA, while stating that it does not affect fair use, has been used by copyright owners to hurt fair use rights. The previous section contained examples that were all fair uses.

Copy-protected CDs have been introduced into the market place in order to prevent the CDs from being copied, and in some cases, played in the first place. The protection on the CDs makes them un-usable in a number of stereo systems. MP3 copies cannot be made for use in MP3 players and personal copies of the CDs cannot be made. Making copies of a CD for personal use is protected under fair use. The DMCA and the copy-protected CDs interfere with this right. Any company, which creates or distributes tools or software to get past the protections are then liable under the DMCA's ban on circumvention tools and technologies.

DeCSS software is used as a legitimate fair use by film scholars, travelers, and parents to fast-forward or skip past commercials on DVDs or move the movies onto laptops or other formats for personal use. The tools to do so are illegal under the DMCA, thus making these fair uses impossible.

In order to make legitimate fair uses of a number of works today, necessary tools are needed to bypass the digital locks. In order to prevent piracy, the rights of all users are being eliminated. Everyone is treated like a criminal. Copyright owners argue there is no way to make the distinction between someone having legitimate fair use and someone guilty of piracy and thus protections are necessary and the tools to circumvent are illegal. However, a number of technologies can be misused, such as photocopiers,

VCRs and CD-R burners, but the general public as a whole does not give them up simply because they might be used illegally by others. The same should apply to circumvention software and technologies.

Impedes Competition and Innovation

The Digital Millennium Copyright Act is being invoked for unnecessary and inapplicable reasons; such as by companies against their competitors.

Sony has used the DMCA to pressure competitors from creating software allowing PC owners to play Sony Playstation games. Sony has sued Connectix Corporation and Bleem, two companies which have developed software enabling the Playstation games to be used on home computer systems. Sony claimed circumvention violations, but the claims were withdrawn when the reverse engineering was found to be a non-infringing use through a number of court cases.

Sony was not deterred and invoked the DMCA in another situation, which lacked any connection to piracy or illegal uses. A hobbyist cracked encryption codes used on Sony's Aibo robotic pet dog. The hobbyist never revealed the source code or the code he used to circumvent the encryption. While the hobbyist was safe under fair use, Sony still sued to have the program removed from the hobbyist's website. After much red tape, court time, and money spent, Sony permitted some of the programs to be re-posted online.

Apple harassed Other World Computing (OWC) and invoked the Digital Millennium Copyright Act when the company, a small Apple Macintosh retailer, developed a patch for users of older computers to allow iDVD software to work on their systems. The software modification aided consumers because they did not have to purchase a brand new computer in order to have access to one feature. Rather than face expensive court fees, OWC obliged Apple's request to desist manufacture and

distribution of the patch. Apple was not trying to stop copyright infringement; instead they were just trying to protect their own financial interests, at the expense of their consumers and at the expense of technological innovation.

Sony and Apple are not the only companies to abuse the DMCA in order to assert monopoly power over competitors. Universal and the Chamberlain Group, (which manufactures popular garage door locks,) have both referenced the DMCA when trying to stall competitors. These companies have been able to do so because the language of the DMCA is not clear. It does not detail what is illegal infringement and what is a legitimate fair use. The DMCA was not meant to interfere with fair use, but it seems the only fair uses that have been protected are those of big business and the corporations that lobby Washington, D.C.

Proposed DMCA Amendments

H.R. 107 the Digital Media Consumers' Rights Act

H.R. 107 is a bill which would amend the Digital Millennium Copyright Act. It was written and introduced during the fall of 2002 by Congressmen Rich Boucher and John Doolittle. "The fair use doctrine is threatened today as never before. Historically, the nation's copyright laws have reflected a carefully calibrated balance between the rights of copyright owners and the rights of the users of copyrighted material. The Digital Millennium Copyright Act dramatically tilted the copyright balance toward complete copyright protection at the expense of Fair Use rights of the users of copyrighted material. H.R. 107 will assure that consumers who purchase digital media can enjoy a broad range of uses of the media for their own convenience in a manner which does not infringe the copyright of the work,"¹⁶ explained Boucher.

¹⁶ Boucher, Rick. "Hearing Held on Boucher's Bill, H.R. 107, the Digital Media Consumers' Rights Act." 12 May 2004. 15 November 2004. www.house.gov/boucher/docs/fairusehearing.htm

The bill limits the scope of the circumvention provisions in order to further detail fair use and prohibit circumvention for the purpose of copyright infringement. Pertaining to technologies that enable circumvention, the technology would be determined lawful if it is capable of a substantial non-infringing use. The bill outlines what factors would be considered in determining so in order to erase the subjective interpretation of the DMCA. The bill would also require CD manufacturers to correctly label disks, which may not play properly in all devices due to protection encryptions, as well as disks that are not recordable.

H.R. 107 has bipartisan support, with 24 co-supporters, in the House of Representatives, yet as of May 2004 was stalled in the subcommittee, Courts, the Internet, and Intellectual Property. It is important this bill is passed into law because it takes a significant step toward reaffirming fair use rights of consumers in the digital age.

H.R. 1066 the Benefit Authors without Limiting Advancement or Net Consumer Expectations (BALANCE) Act

H.R. 1066 was written and introduced by Zoe Lofgren and Rick Boucher in March 2003. The bill would “safeguard the rights expectations of consumers who lawfully obtain digital entertainment.”¹⁷ The bill would amend the original Copyright Act, expanding fair use rights as follows:

1. Include analog or digital transmissions of a copyrighted work within fair use protections;
2. Provide that it is not a copyright infringement for a person who lawfully obtains or receives a transmission of a digital work to reproduce, store, adapt, or access it for archival purposes or to transfer it to a preferred digital media device in order to effect a non-public performance or display;
3. Allow the owner of a particular copy of a digital work to sell or otherwise dispose of the work by means of a transmission to a

For more information about the status of H.R. 102 or any of Boucher’s initiatives pertaining to the Internet and digital media rights, visit www.house.gov/boucher/internet

¹⁷ H.R. 1066 *Benefit Authors without Limiting Advancement or Net Consumer Expectations (BALANCE) Act* retrieved 29 November 2004 from “THOMAS: Legislative Information on the Internet” <<http://thomas.loc.gov>>

- single recipient, provided the owner does not retain his or her copy in a retrievable form and the work is sold or otherwise disposed of in its original format; and
4. Permit circumvention of copyright encryption technology if it is necessary to enable a non-infringing use and the copyright owner fails to make publicly available the necessary means for circumvention without additional cost or burden to a person who has lawfully obtained a copy or phonorecord of a work, or lawfully received a transmission of it.¹⁸

The bill currently has six co-supporters and was sent to the subcommittee, Courts, the Internet, and Intellectual Property, in May 2003. H.R. 1066 goes hand in hand with H.R. 107 in restoring rights to consumers. It provides flexibility for copyright holders to develop new and innovative ways to protect their work, while also enabling lawful users to adapt and formulate the works for the best use.

Oppositions to Reform

Oppositions to reform of the Digital Media Copyright Act are few and far between. In fact, it's nearly impossible to find any objections. The only objections stem from the actual bills for reform. James Gattuso, a lawyer at the conservative Heritage Foundation, says he has mixed feelings about the Boucher-Doolittle proposal, H.R. 107. "It's neither 100 percent good nor 100 percent bad," Gattuso said. "The core of it, putting in a fair-use exemption for the DMCA, seems to make a lot of sense. But then it also contains a number of provisions putting new regulations on the marketplace." Not only does the fair use exemption make sense, so do the new regulations. The new regulations are intended to help clarify the DMCA which is being widely abused. The main market regulations require media manufacturers to disclose the full truth about their product, such as copy-protected CDs. What is wrong with holding a company responsible for their actions and not allowing the company to deceive their consumers?

Gattuso goes on to say, "what it does is require a lot more disclosure, which sounds good, but in reality it means a lot more unread and useless warnings and disclosures that

¹⁸ Ibid

consumers will have to wade through. It could take away from more important information that consumers really do want."¹⁹ First, new laws and regulations do not take important information away from consumers. *Not* having the DMCA reformed would deprive consumers of necessary information, let alone their rights. A warnings and disclosures are not useless in any way, even if a consumer chooses not to read them. It's more important to protect fair use and people will read the disclosures if it matters to them. Just because people aren't aware of every law, does not make the law disappear. The law is there for people who need it, and we all deserve to have our fair use rights in tact.

Another opposition comes from the Entertainment Software Association²⁰ which fears that relaxation of circumvention rules will only open the floodgates of piracy. This fear stems from big businesses which don't want to lose a penny from the possibility of any illegal activity. This argument fails because the innocent should not be punished because of the guilty. People who truly wish to infringe upon copyrights will do so whether the technology is legal or not. It is absurd to refuse a technology because of the possibility of abuse, though. If we made everything which had the possibility to be abused illegal, we wouldn't have VCRs, cable television, even non-technology related goods such as alcohol. The United States is supposed to be the land of the free. It isn't free if our rights are taken away in order to protect a profit.

Support for Reform

Support for reform of the Digital Millennium Copyright Act is widespread, from independent activists, to large corporations. Such corporate and other private supporters include;

Intel, Philips Consumer Electronics North America, Sun Microsystems, Verizon, BellSouth, Qwest, Gateway, SonicBlue, Red Hat, Consumer Electronics

¹⁹ McCullagh, Declan. "Congress Asked to Unpick Copy Lock Laws." October 2002. 6 December 2004. <http://news.com.com/Congress+asked+to+unpick+copy+lock+laws/2100-1023_3-960731.html?tag=nl>

²⁰ For further information about the Entertainment Software Association, visit <www.theesa.com>

Association, Video Software Dealers Association, National Humanities Alliance, Association of American Universities, American Library Association, Association of Research Libraries, American Association of Law Libraries, Medical Library Association, Special Libraries Association, Art Libraries of North America, Home Recording Rights Coalition, Digital Future Coalition, Consumers Union, Consumer Federation of America, Public Knowledge, National Writers Union, United Auto Workers, American Foundation for the Blind, Computer Research Association, Computer Professionals for Social Responsibility, Consumer Project on Technology, Association for Computing Machinery, Electronic Frontier Foundation and 3-2-1 Studios.

These companies and associations recognize that the rights of consumers should not be sacrificed. The rigidity of the Digital Millennium Copyright Act stifles the rights of consumers and destroys fair use.

Consumer Electronics Association (CEA) President and CEO Gary Shapiro stated, "Entertainment and media giants have persuaded Congress to restrict our digital personal use rights - and have harmed consumers, educators, scientists and innovators in the process. The consumer electronics industry strongly supports intellectual property rights, but these rights must be weighed against the rights of consumers to have reasonable access to and use of digital media they have purchased as well as the rights of innovators to develop and market new products. The measures embodied in H.R. 107 strike this critical balance. This is reasonable, common-sense legislation and deserves the support of all who seek a balanced approach to the digital copyright debate."²¹

Conclusions

In today's digital age, we need the Digital Millennium Copyright Act- just not how it stands today. It is rigid and unfair and must be reformed. The DMCA hurts you, as a citizen. It hurts students, teachers, researchers, writers, and artists. It hurts the everyday user, from soccer moms to truck drivers, from CEOs to factory workers. The Digital Millennium Copyright

²¹ Consumer Electronics Association: Press Room. "H.R. 107 Will Restore Balance To Intellectual Property Laws." 21 June 2004, retrieved 6 December 2004
<http://www.ce.org/press_room/press_release_detail.asp?id=10492>

Act hurts everyone. Meant to combat legitimate criminals- copyright infringers and piracy, the DMCA has killed free expression and innovation.

Our laws need to be more flexible. Specific issues will be handled on a case by case level, establishing precedents and creating case laws. We need to give consumers the benefit of the doubt and not assume everyone has illegal intentions. What ever happened to innocent before proven guilty? The Digital Millennium Copyright Act destroys your rights as an American. "We need to rewrite the law for the benefit of society as a whole before all access to information is irreversibly controlled. In short, we need to reaffirm fair use."²²

The bills, H.R. 107 and H.R. 1066 are still in Congress and need your help. Write your congressman and urge him or her to co-sponsor the bills. Research. Get involved. H.R. 107 and H.R. 1066 will not solve all the problems with the Digital Millennium Copyright Act, but they are a step in the right direction. A step towards protecting the rights of citizens; a step towards protecting fair use.

Further information can be found at:

Electronic Frontier Foundation (www.eff.org)
Anti-DMCA (www.anti-dmca.org)
Protect Fair Use (www.protectfairuse.org)
Congressman Rick Boucher (www.house.gov/boucher/internet)

²² Boucher, Rick. "Time to Rewrite the DMCA." January 2002. 1 November 2004.
<<http://news.com.com/2010-1071-825335.html>>