

Commenter name: Matthew Ford

1) Limiting access to copyrighted materials on commercial DVD(class 1) destroys the "fair use" rights of the owner of a copy of a DVD. For example, a consumer who wants to play a DVD on a Linux computer has no legal way of doing so, because of the access restrictions. Another consumer who would otherwise be able to transfer the content to a personal video player device(such as the Apple video iPod) is also denied that option, because the encoded content. Yet another consumer who wishes to create their own custom compilation of DVD content is also constrained. If you compare these cases with audio CDs, where the access is not restricted to copyrighted works, a consumer can perform all these things: access the content on any computer CD drive, transfer the content to a portable audio device such as the Apple iPod, or make a new custom CD mix of other audio CDs that they own. All of these examples fall under "fair use", and yet they are all denied under this provision of the DMCA.

2) For content that is not in DVD format(class 2), it's also notable that companies have been using the idea of "copyrighted works" to stymie competition by halting the practice of reverse-engineering. One example is the Lexmark vs. Static Control suit. CNET has reported: "In December 2002, Lexmark sued Static Control, a family-owned business in Sanford, N.C., claiming that its Smartek chips sold to toner cartridge remanufacturers violate the DMCA. The Smartek chip "circumvents the technological measure" that the printer uses to verify the cartridge is original and not remanufactured, Lexmark claims."

Because of these fair-use restrictions and anti-competitive restrictions, these access restrictions on copyrighted works in the DMCA should be eliminated.