

Introduction:

At the hearings, the MPAA introduced evidence that videotaping the output of a television screen was an alternative to circumvention for desired noninfringing uses by users. In addition to capturing the output of a television or computer screen with a video camera, screen capture software exists for a wide range of purposes. At the hearings, one particular software program was used to illustrate that software-based screen capture is capable of reproducing the output from a CSS-encrypted DVD. Examples of such capture software include: SnagIt (TechSmith), Snapz Pro X (Ambrosia Software, Inc.), WM Capture (Applian Technologies Inc.), etc. The questions below relate to the capture of clips from CSS-protected motion pictures on DVDs.

Please explain whether the legal consequences of using capture software differ from the legal consequences of using a digital video camera (with particular reference to 17 U.S.C. § 1201).

Is it a violation of § 1201(a)(1) to use screen or video capture software (hereinafter “capture software”) to reproduce clips from copyrighted motion pictures or audiovisual works?

Is there particular capture software that decrypts the Content Scrambling System on DVDs?

Is there particular capture software that does not decrypt the Content Scrambling System on DVDs?

To the best of your ability, please explain how screen capture software operates, e.g., does reproduction take place after the work is lawfully decrypted?, Does the capture software reproduce the digital output from the computer, or does the capture software reproduce the analog output from the computer? Does this analog/digital distinction matter for determining whether a violation of § 1201(a)(1) is taking place?

Is the output *encrypted* at the time of capture by the software or is the output *decrypted* at the time of capture?

Do different screen capture programs involve significantly different methods of capturing screen and/or audio output?

There was an example of screen capture software at the § 1201 hearings and some witnesses pointed out that the example presented revealed quality degradation, e.g.,

pixelation. Can capture software be adjusted in order to affect the quality of the reproduction of the video or audio captured? If so, how?

Can the computer on which the capture software resides be adjusted to affect the quality of the output, i.e., by adjusting the settings of the operating system, video card or sound card software rather than the settings within the capture software itself?

It was claimed that screen and video capture technology does not work with Microsoft Vista. Is this true, and if so, why?

Are there other operating systems on which screen capture software will not operate?