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Wednesday, August 14<sup>th</sup>

Mr Laurence Robertson  
MP for Tewkesbury  
House of Commons  
London  
SW1A 0AA

Dear Mr Robertson,

I am writing to you to request that you take action against the passing of the UK implementation of the EU Copyright Directive (2001/298/EC) [2] as recently published in draft by the Patent Office [1].

I am led to understand that these dangerous amendments are a statutory instrument and that Parliament has forty days to pass a motion annulling it from the date of final publication (scheduled at the end of the October). I request that you seek to obtain a parliamentary vote on such an annulment.

The EU Copyright Directive seeks to harmonise copyright laws across the EU by surrendering them to publishers. It is explicitly (in paragraph 15) drawn up in response to two World Intellectual Property Organisation (WIPO) treaties, namely the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The United States enacted their implementation of the same treaties in 1998 in the Digital Millennium Copyright Act (DMCA) and that allows us to accurately predict the effects of the EU CD.

The most damaging section of both laws are those providing protection of technological copyright systems (Article 6 of the EU CD and Section 1201 of the DMCA).

Section 1201 was been repeatedly abused and some of these abuses have been documented in a recent report from the EFF [3] which I have included. The two sections are effectively identical and if the EU CD is implemented into UK law the same abuses can be expected to occur here.

These abuses stem from Article 6 which gives legal protection to technological systems designed to restrict access to information. This effectively surrenders copyright law to publishers as any policy embedded in a technological system becomes law.

This fundamentally inverts the rights of people. Currently, people have the right to do anything *except* that which is prohibited in copyright law. Fair use legislation then returns some of these rights to the people in places where copyright law is too broad.

Article 6 (and Section 1201) give the people *no* rights, *except* those granted by publishers. There are several good examples of this which have stemmed from the DMCA. Firstly DVDs cannot be played outside the region in which they are produced and many prohibit fast forwarding past the adverts. Secondly electronic school text books have been made to expire after a year to stop students from reselling them and so reducing the profits of the publishers. Because they are 'technological measures' these restrictions have the full force of law under the DMCA and EU CD, as would any other restrictions that the publishers wished to implement. This completely abolishes any concept of fair use.

(as a side note; Article 6, paragraph 4 allows members states to "take appropriate measures to ensure that right holders make available ... the means of benefiting from [an] exception or limitation". The UK

implementation defers this to the Secretary of State, putting it completely beyond reach and making it effectively useless.)

Article 6, paragraph 2 makes it an offence to “manufacture, import, distribute, sell, rent, advertise for sale or rental, or possess for commercial purposes, devices, products or components or the provision of services which are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.”. The equivalent section in the DMCA has had a chilling effect on free speech and ensures that the only legal way to create a tool for playing or accessing material in a specific protected format is by signing a licence agreement with the creators of the format. This means that the company that creates a digital format has complete control over how the players should behave, and also control over who should be allowed to create players for that format.

A program called DeCSS, designed to allow DVDs to be played on non-commercial operating systems (which are not sanctioned by the DVD Consortium) has been suppressed using the DMCA and the EUCD will allow the same stupidity to occur in the UK. I call it stupidity because DeCSS is information and as such falls under the protection of free speech. The extent to which publishers may seek to prohibit such information is not limited by either the DMCA or EUCD and this has been highlighted by expressing DeCSS as source code, a mathematical paper and proof, in pure lambda calculus, as a picture of the code, as a hardware design, as several English descriptions, as a poem, a t-shirt, a Shakespeare play, several songs, a prime number, a DNA sequence, a bar code, and many other forms. Which are prohibited? I also suggest that if the EUCD comes into force you burn this letter as it includes DeCSS:

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It is hard to express just how damaging these amendments will be. I should therefore be pleased if you, as my elected representative in Parliament, take action to ensure that this statutory instrument is subjected to a parliamentary vote in the hope that it is annulled. If you have any questions I would be quite happy to discuss this issue with you.

Thank you for your help

Yours sincerely

Adam Langley

[1] <http://www.patent.gov.uk/about/consultations/eccopyright/>

[2] [http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32001L0029&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32001L0029&model=guichett)

[3] [http://www.eff.org/IP/DMCA/20020509\\_dmca\\_consequences\\_pr.html](http://www.eff.org/IP/DMCA/20020509_dmca_consequences_pr.html)