

I'm a technology author, so my livelihood depends on a strong copyright. That said, I strongly believe that the Sunny Bono Copyright Extension Act and the Digital Millennium Copyright Act go too far.

I need copyright protection for my works to assure me a livelihood from my writing. However, the natural flow of ideas sometimes leads to the creation of derivative works. These often have substantial merit on their own; such works often exceed the quality and social value of the original work. Unfortunately, the legal attitude toward these works is shifting.

In my memory, the first restriction on derivative works was the musical practice of "sampling." The case law, as developed in this area, does not permit "sampling" without the permission of the copyright owner (in the case of the music industry, usually a record company). This is a somewhat lopsided condition versus print media, where, as an author, I'm free to quote another author verbatim (and vice versa), so long as the quotation is properly attributed. It has, as is logical, led to a stifling of innovation and creativity in the "sampled music" arena, although some recording artists (such as Moby) intentionally "sample" works that have reverted to the public domain. With the ever-increasing term of copyrights, however, the practicality of this approach is limited.

The Digital Millennium Copyright Act, through its civil and criminal prohibitions on "reverse engineering," even further stifles the flow of ideas and creativity. It's the digital equivalent of prohibiting a musician from analyzing the tempo of another musician's song, and writing his own song having a similar tempo. Or, for that matter, me analyzing another writer's style, and improving my own based on the analysis. One need only utter the words "hacker," "terrorist," or "Social Security," and Congress seems to immediately throw common sense out the window.

Static Control is in the business of refilling printer cartridges. They have developed a novel method of doing so, and one that Lexmark most assuredly does not like. As an author, looking at this case, though, I really have to wonder what in the world any of this has to do with copyright.

Let's step back from the fray for a minute, and look at the big picture. Lexmark makes printers. These are physical devices that put ink to paper. Static Control refills printer cartridges, with ink. Granted, Lexmark has played some clever tricks to try to prevent Static Control from refilling the cartridges, and Static Control has worked around them, but is Lexmark's behavior what copyright law is designed to protect, to the discouragement of Static Control? It seems to me as though this is an area that's more suited to patent law. It also seems to me that the purpose of copyright law should not be to prevent the creation of complementary works, which the injunction against Static Control most assuredly does.

I respectfully request that the Copyright Office grant Static Control's petition.

Very truly yours,

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