

Aladdin Enterprises  
203 Santa Margarita Ave.  
Menlo Park, CA 94025  
tel. +1-650-322-0103  
fax +1-650-322-1734  
e-mail ghost@aladdin.com

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Copyright Office  
Library of Congress  
1201@loc.gov

To the Copyright Office:

There is a substantial and important class of exemptions to the "circumvention" prohibitions of the Digital Millennium Copyright Act that apparently is not being considered, namely, circumstances where the technological control measures were applied incorrectly. There is, in fact, a commercially important situation where this is currently the case. A software package called Fontographer is used very widely for creating TrueType font files. A bug in Fontographer causes it to improperly mark the fonts it produces in a way that causes certain other widely used software packages to consider that the font may not be embedded in documents that use the font. This incorrect marking happens by default, contrary to the wishes of the font author. The authors of Fontographer have been unresponsive to users and authors and have not fixed this problem. Thus a situation has been created where the author of the font wishes to allow users to embed it, but users who remove the protection marking (which is extremely simple technically -- it involves changing one easily-located bit in the font) will be in violation of the law.

To address this problem, we believe an appropriate exempted class would be "works to which technological control measures have been applied incorrectly (contrary to the intent of the copyright holder)."

Sincerely,

L. Peter Deutsch  
President