

Comments on the Digital Millenium Copyright Act

The act provides for reverse engineering for the purposes of ensuring software interoperability (an example is the current situation with playing DVD movies on the Linux operating system), at the same time making defeat of technological protection measures (TPMs) illegal. The problem is that ensuring interoperability of software is a long and complex process, the very first step of which is necessarily defeating the technological protection measures built into a software product so that the underlying data can be accessed. In the intermediate products in this process are potentially illegal by DMCA. This theory has already been argued in court and was successful enough to win an injunction in the DeCSS case.

The Copyright Office needs to make clear that creating software which defeats TPMS falls under the reverse engineering provisions of the act, so long as it is an indispensable step towards the express goal of creating interoperable software. Otherwise, interoperable software cannot be created. This is important to people who wish to play their legally purchased DVDs on the Linux operating system; to people who want to access their own data on servers running the Windows operating system from non-Windows computers using reverse engineered network protocols; and to people who may wish to play DVDs at some future point when the format is obsolete and commercially available players are no longer sold.

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