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1 page: Digital rights management: Whose rights are being managed?

The emerging generation of DRM systems is a compelling illustration of how privately determined rules can conflict with social values and public policy. These systems threaten to lock up information behind cryptographic walls and to meter access with inflexible rules, requiring all uses of copyrighted works to receive prior authorization of the copyright holder. Commonly expected—and culturally valuable—activities such as reading, reselling, lending, and building upon existing works could become subject to copyright holder approval. DRM systems that practically eliminate the public’s legal use of copyrighted works where not approved by copyright holders threaten the balance of copyright protections and limitations on exclusive rights integral to the overall goal of promoting the progress of the arts and sciences.

DRM systems are being developed under recent amendments to copyright law that establish penalties for those circumventing technical measures designed to protect works, as well as the threat of further legislative and regulatory action. Many stakeholders are absent from DRM standardization efforts by private standards-setting organizations. The development of technical protocols that replace current copyright policy with privately determined, access and usage restrictions is nearly certain to favor large content companies that have the resources, expertise, and political clout to influence their outcome. If legislative action is required in the area of DRM, it is to establish protections for the public and other users of copyrighted works whose interests stand to be diminished by technical systems that frustrate the exercise of existing legal rights and limit the opportunities of courts to evolve existing exceptions and defenses to copyright law.

In addition to upsetting the balance established in copyright law, DRM technology raises collateral threats to individual privacy, computer security, and competition in the consumer electronics and software marketplaces. The consequences of DRM technology on these other interests and values has received scant attention in the overall debate. To help protect these interests, DRM systems should ensure that users remain in full control over the security of their computers. DRM systems should also protect users' privacy, and enable institutions to protect their clients' privacy. A set of principles that public interest groups, librarians, technologists, and copyright lawyers are drafting will help guide the design of DRM systems that respect these concerns.