

Class 20: DMCA And Notice And Takedown

Next Time

Spring Break

Then: 773-99

News

- Jill Sobule's Next Album 🌐
- Apple considering subscription music plan? 🌐
- West and scans of Legislative History 🌐
- Mr. Do Not Reply (donotreply.com) 🌐
- 21 Steps: Google Maps Fiction 🌐

DMCA: Anticircumvention

Exact structure of statute isn't so important 🌐

Basic idea:

- It's illegal to "circumvent" copyright protection systems
- Also "trafficking" in circumvention tools
- Also marketing those tools
- "Paracopyright"

The Librarian of Congress's Periodic Rulemaking 🌐

- Allows ONLY circumvention, not trafficking or marketing
- Rejected proposed rule for backing up DVDs
- Rejected allowing skipping of ads at beginning.
- Key: Rulemaking requires proof that your proposal isn't just about "mere inconvenience"

Class 20: DMCA And Notice And Takedown

DMCA: Anticircumvention

Corley

Facts

- Collision of DMCA anti-trafficking provisions and First Amendment
- CSS protects DVDs
- DeCSS is a program developed to circumvent
- Corley is the publisher of 2600: The Hacker Quarterly
- Sued for publishing source code for DeCSS on website
- In an act of "electronic civil disobedience, continued to link to other sites that published source"

Claim is that programmer wanted to watch DVDs in Linux
But at least some forms were for playing in Windows

District Court

Preliminary and then Permanent Injunction barring 2600 from posting both the source and the links.

Held

No violation of First Amendment to enjoin publishing and linking under the trafficking provision.

Reasoning

Class 20: DMCA And Notice And Takedown

DMCA: Anticircumvention

- AACS Key
 - Access restriction scheme for HD-DVD and Blu-Ray
 - Fewer reused keys, so harder to find the master keys
 - But 09F9 controversy ⊕
- Fared Use
 - The ordinary defenses to Copyright infringement (most importantly Fair Use) don't obviously apply.
 - Amazon Kindle
 - ABC.com TV shows

- Slingbox: Space-shifting
- Rip DVD to iPod
- iPhone cracking
- What if you lock public domain material with your copyrighted material?

DMCA: Notice and Takedown

- Basic Notice and Take-down/Safe Harbor Provisions (Section 512) (again, details not critical) 🌐
- Wendy Seltzer/NFL 🌐
- Michael Crook 🌐
 - Jason Fortuny's sordid Craigslist experiment
 - The Fox News interview
 - Use of a still from Fox News by bloggers
 - Notice and Takedown
 - The Settlement Terms
- Notice and Takedown isn't just for the safe harbors of 512 ⊕