3.2F: Digital Millennium Copyright

The Digital Millennium Copyright Act

As digital technologies have changed what it means to create, copy, and distribute media, a policy vacuum has been created. In 1998, the US Congress passed the Digital Millennium Copyright Act (DMCA), which extended copyright law to take into consideration digital technologies. Two of the best-known provisions from the DMCA are the anti-circumvention provision and the “safe harbor” provision.

- The anti-circumvention provision makes it illegal to create technology to circumvent technology that has been put in place to protect a copyrighted work. This provision includes not just the creation of the technology but also the publishing of information that describes how to do it. While this provision does allow for some exceptions, it has become quite controversial and has led to a movement to have it modified.

- The “safe harbor” provision limits the liability of online service providers when someone using their services commits copyright infringement. This is the provision that allows YouTube, for example, not to be held liable when someone posts a clip from a copyrighted movie. The provision does require the online service provider to take action when they are notified of the violation (a “takedown” notice). For an example of how takedown works, here’s how YouTube handles these requests: [YouTube Copyright Infringement Notification](https://www.youtube.com/t/sitecopyright).

Many think that the DMCA goes too far and ends up limiting our freedom of speech. The Electronic Frontier Foundation (EFF) is at the forefront of this battle. For example, in discussing the anti-circumvention provision, the EFF states:

Yet the DMCA has become a serious threat that jeopardizes fair use, impedes competition and innovation, chills free expression and scientific research, and interferes with computer intrusion laws. If you circumvent DRM [digital rights management] locks for non-infringing fair uses or create the tools to do so you might be on the receiving end of a lawsuit.
In chapter 2, we learned about open-source software. Open-source software has few or no copyright restrictions; the creators of the software publish their code and make their software available for others to use and distribute for free. This is great for software, but what about other forms of copyrighted works? If an artist or writer wants to make their works available, how can they go about doing so while still protecting the integrity of their work? Creative Commons is the solution to this problem.

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