

# The DRM Debate - What Should the Model Be?

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## **Tonight's Issues: DRM: To Be Or Not To Be, That Is The Question**

- **Who owns the "rights" to digital media?**
- **What ownership rights model provides good value to the consumer and also maximizes the return to the original creator?**
- **What group should be responsible for defining and monitoring digital rights guidelines?**
- **Should any government groups be involved in the debate?**
- **What technological approach should be used for digital rights management?**

## DRM Debate Presently Framed (Mostly) As:

- **Are intangibles property?**
  - NO, some say loudly and insistently
- **First sale rule:**
  - I bought it, I can do what I want with it
- **The Sony Betamax (court ruling) approach**
  - I can make copies at home for my own personal use
- **DRM negates copyright “Fair Use”**
- **DMCA prohibitions against reverse engineering adversely affect interests of engineers, scientists**

# Who Owns The "Rights" To Digital Media?

- **Depends on:**
  - **Distribution model from creator to consumer, e.g.,**
    - Artist direct? Aggregator direct? Studio direct / through distributors?
  - **Business model considerations, e.g.,**
    - Is the music the main revenue generator or concerts, merchandise?
    - Labels tend not to share in the non-music revenue streams
  - **Statutory requirements – compulsory licensing**
    - Music streaming on the Web
  - **Contractual models up and down the value chain**
    - Has contract law displaced copyright law?

# Evolving Ownership Models

- **Some experiments now being tried**
  - **DRM-free music**
    - **Jobs / Apple / iTunes: DRM-free because it's right or to shift blame to studios and to avoid the anti-trust quicksand**
  - **Market statistics:**
    - **Consumers prefer DRM-free – Well, Duh!**
    - **Consumers prefer no cost – D'oh!**
  - **Artist-mandated free or voluntary payments**
    - **E.g., Radiohead**
- **However: none of this addresses the fundamental issues**



## Which Government Groups Should Be Involved?

- **NONE!**
  - but they will be involved
- **Philosophically, government is supposed to arbitrate disputes among private parties**
- **But the combatants do not have equal access to government**
- **Predictably unfair and unbalanced results, e.g.,**
  - **RIAA & MPAA attack on EDU tying government money to schools policing copyright (P2P)**

## Technological Approaches?

- **The record business is a lost cause**
    - **Armageddon\* is here and will persist**
      - **Broadband, high quality compression, and inexpensive storage**
  - **Video is *the* battleground for the foreseeable future**
    - **DRM / fingerprinting / watermarking / content tracking technologies**
    - **Market forces will determine the outcome**
- **However: the KEY problem is too little, rather than too much DRM**

\*Albhy Galuten, Universal Music

## Make The *Means Of Protection* Widely Available

- **Packaging tools now controlled by large companies**
  - Media companies object to packagers for everyone
  - Large software companies view media as important constituencies / customers
- **DRM providers *could* be the “arms merchants to the disintermediation wars”\***
- **Creators could then:**
  - Go direct to consumers
  - Get paid for their works, if they so choose
  - Find out whether anyone is looking at, playing, otherwise using their works, if they so choose

\* Crigler & Weber



## With The *Means Of Protection* Widely Available:

- **Creators of all kinds would have more choice**
  - Let a bazillion cottage industries bloom
  - Efficient, backend clearinghouses a requirement
  - Better micropayment technologies *may* be helpful
    - Minimum transaction efficiently cleared: 25 cents → 5 cents????
    - Local stored value if real Trusted Computing were deployed
      - In the consumer space, many privacy advocates hate the idea
- **Need to create platforms enabling true superdistribution**
  - Consumers become distributors and benefit economically

## Conclusion

➤ **Democratize the Means of Protection**

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