

The Rights Management Trap ↗0

The Net Effect By **Simson Garfinkel** November 2002



To embrace digital rights management is to make a deal with the devil.

Faust made his deal with the devil. In return for the devil's service and knowledge, Faust agreed to surrender his body and soul after 24 years' time. By the time Faust realized the folly of his decision, it was too late

Today we are being asked to make a similar bargain—not with the devil, but with the entertainment industry. The promise is a future in which we'll download music and movies over the Internet at rock-bottom prices. It's a future where digital content—books, magazines, newspapers, and databases—will be at our fingertips. It's a future where software and information will be rented, and people will pay only for what they use. And it's a future in which computers will be inherently secure because they will be unable to run viruses and other hostile programs. It is, in short, a high tech paradise.

But it is a trap.

Every bargain has its price. In this case, the price is "digital rights management"—an industrywide project that has been under way for more than a decade and is likely to accelerate within the coming year. Digital rights management starts with a system for marking the "rights" that consumers are granted when they pay for digital media. For instance, an electronic label might say, "This music may be played on your computer but not shared with a friend." Or, "This magazine article may be viewed twice and printed once, and then it must be deleted." But the flip side of the so-called rights is another r-word: restrictions. Rights management systems will make possible software that will watch your computer and make sure you don't break the rules.

One of the great things about computers has been that you can throw away any software that comes with them and install something you like better. Digital rights management software shreds that freedom. Underneath this software is new hardware that will prevent computer users from removing the "rights management system" and installing their own systems that do not respect digital restrictions. That hardware, in turn, relies on the force of legislation. The 1998 Digital Millennium Copyright Act, in particular, makes it a crime to circumvent digital rights management software—or even to distribute information that tells other people how to do so. And proposed legislation, the Consumer Broadband and Digital Television Promotion Act, would require all computers sold in the United States to incorporate federally approved rights management technology. Similar legislation is working its way through Europe.

Essentially, consumers will be giving up their right to control their own computers. Citing the widespread piracy of software, music, and videos, the entertainment industry argues that consumers have abused that right. But managing consumers as children will have the side effect of smothering much of the innovation that made the Internet possible. Digital rights management could quash the computer revolution as we know it, transforming our machines from tools for creation and exploration into appliances that run Microsoft Office, play MP3s, browse the Web, and do little else.



Don't get me wrong. I make my living by creating and selling intellectual property, and I'm sometimes a victim of unauthorized copying. A few years ago one of my publishers started selling my books on CD-ROM. Although each disc is licensed only for personal use, at least once a month I discover that someone in Eastern Europe or Russia has taken that whole disc and put it on the Internet. Usually it's a university or a library that is engaging in such wholesale piracy.

But I would rather live with the piracy than have a computer that runs only the software that has been preapproved and digitally signed. I don't want to have my electronic movements constantly monitored and reported to some Big Brother database on the off-chance that I *might* be violating somebody's copyright.

This isn't the first time publishers have tried to impose unreasonable restrictions on the public. On the inside cover of one of my wife's childhood books, published in England, this ominous warning appears: "This book shall not, by way of trade or otherwise, be lent, re-sold, hired out or otherwise circulated without the publisher's prior consent." Books don't have such restrictions anymore—if they did, we would laugh at them. A hundred years ago, U.S. publishers put similar

restrictions in our books; they were deemed by our courts to be unenforceable violations of "fair use." But digital rights management tools will enable publishers to turn back the clock and write the same kinds of restrictions directly into their software. Digital rights management is already at work. Incompatible coding means that DVDs sold in the United States won't play on European DVD players. This is to prevent Europeans from buying cheap DVDs in the United States.

Perhaps even more disturbing, the new protection technologies would necessarily have to block a computer from running Linux or any other open-source operating systems. Otherwise, anyone bent on unauthorized copying could create a version of Linux that didn't incorporate the copyright protection system.

The industry's antipiracy arguments are a smoke screen. Digital rights management is about strengthening monopolies, increasing revenues, and restricting our freedoms. We must not be beguiled as Faust was.

Simson Garfinkel writes on information technology and its impact. He is the author of *Database Nation* (O'Reilly, 2000).