The Present and Future of Digital Rights Management

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Abstract

Over the last few years, Digital Rights Management (DRM) systems have become increasingly successful in various areas of digital content production and distribution. While DRM-related technology research has achieved a certain degree of maturity since the 1990’s, the legal framework surrounding DRM systems remains in flux and is fiercely debated.

This keynote speech first provides an overview of the various ways by which digital content is protected in a DRM system. The intertwining protection by technology, contracts, technology licenses and anti-circumvention regulations may lead to a new “property right” making copyright protection obsolete. However, there is a danger of over-protection: questions of fair use and other limitations to traditional copyright law have to be addressed. If competition is not able to solve this tension between the interests of content providers and the interests of users or the society at large – which seems doubtful at least – it is the law that has to provide a solution. The speech presents the different approaches legislatures in Europe and in the United States have adopted.

Second, the speech discusses recent developments at the intersection of DRM and the law, in particular the discussions about DRM interoperability, patents on DRM technology, DRM standards, and the relationship between DRM and levy systems as well as between DRM and trusted computing.

Third, the speech analyzes recent scholarship that attempts to solve legal and policy questions surrounding DRM on a technological level. The speech questions whether the tension between technological protection and public values such as fair use, privacy, competition and an innovation commons is really irreconcilable. It argues for a more nuanced approach that explores possibilities and limitations of a value-centered technology design of DRM systems. Only if technology research focuses on such questions, the disapproval of DRM systems by many legal scholars and policy activists could possibly diminish in the long term.
Biography

Stefan Bechtold graduated from the University of Tübingen Law School, Germany, in 1999, where he was a research assistant from 1997 to 2004. In 1999 and 2000, he was a Visiting Scholar at the University of California at Berkeley School of Law. In 2001, he received a legal Ph.D. from the University of Tübingen Law School. Supported by a Fulbright scholarship, he received a master’s degree (J.S.M.) from Stanford Law School in 2002 under the supervision of Professor Lawrence Lessig. Since 2002, he is a non-residential Fellow at the Center for Internet and Society at Stanford Law School. From 2002 to 2004, he was a law clerk at the regional court of Tübingen, which is a mandatory part of German legal education. As part of this training, he spent a three-month internship at a telecommunications law unit of the European Commission’s Directorate General Information Society in summer 2004. In 2004, he was appointed to the expert committee on copyright and publishing law of the “Deutsche Vereinigung für gewerblichen Rechtsschutz und Urheberrecht (GRUR)” (German professional association for intellectual property law). Since 2005, he is a Senior Research Fellow at the Max Planck Institute for Research on Collective Goods in Bonn, Germany. At the Max Planck Institute, he is currently writing his “Habilitation” (post-doctoral thesis). In the fall of 2005, he was a Visiting Scholar at the Institute for Information Law at the University of Amsterdam.

Mr. Bechtold’s scholarly interests include the intertwining of law, technology and economics in the information society, in particular regarding various forms of intellectual property. Mr. Bechtold is the author of numerous publications in the area of cyber-law and intellectual property law, including a book on the implications of digital rights management. He has composed numerous orchestra and chamber music works which have been awarded several composition prizes and have been repeatedly performed.