

# The OzDMCA: What it means for FOSS

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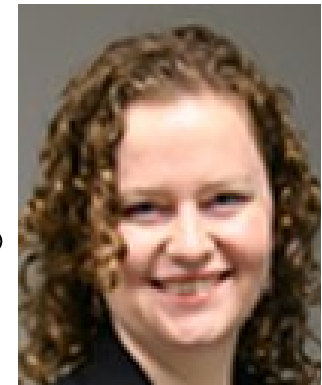
**My copyright system is broken. You're the legal genius. Fix it!**



**I'll fix it!**



**And they think that  
#%^\$%&\$%^  
Windows is unfixable...**

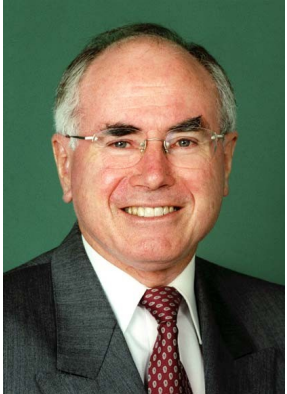


What happened: how and why

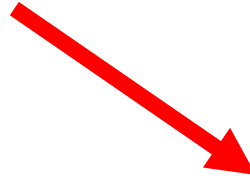
What it means for FOSS

What next

# What happened?

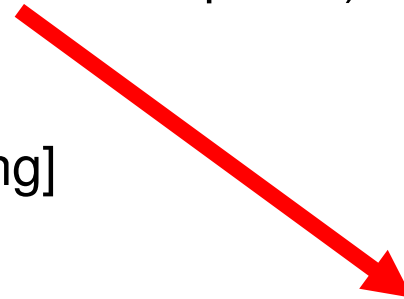


2004: US-Australia FTA concluded



2005-2006: Reviews:  
Fair use and TPMs  
(and some others not in public)

[lots of lobbying]



Copyright  
Amendment  
Act 2006

# Copyright Amendment Bill

## shiny things for users

1. iPod use becomes legal
2. Taping TV to watch later becomes legal
3. Parody and satire
4. More copying/preserving rights for libraries
5. More copying rights for the visually disabled.

**BUT**

- More and expanded criminal law
- Less free copying for schools/unis
- An Australian DMCA



“bad policy”

“an effort to fit the square peg of creative innovation into the round hole of statutory definition”

“Respectfully, Google believes that the Bill fails significantly to bring Australia’s Copyright Act fully into the digital age”





“outdated and overly restrictive”  
“needs to be amended”

**Linux  
Australia**

“Failed”

First

Highly qualified, specific  
exceptions

# Example: the iPod exception



1. You own a copy of the sound recording
2. Which isn't an infringing copy
3. And isn't downloaded from the internet or from digital broadcast
4. You make a copy for 'private and domestic' purposes
5. On a device (like an iPod) that you own

Second

# The Australian DMCA

The US DMCA makes it illegal to:

Circumvent

Or sell/distribute devices/programs that circumvent

Technological access controls or copy controls

Used on copyright material

*Regardless* of whether circumvention involves infringement

# Heard of these cases?

- DeCSS case (Corley/Remeirdes)
- BnetD case
- Lexmark
- Skylink



# Australian law before the FTA

- No ban on circumvention
- TPMs must 'prevent or inhibit infringement'
- Narrowly interpreted by courts

# Post OzDMCA

- Ban on circumvention
- More things are 'circumvention devices'
- Less exceptions
- More technologies protected

So, what can't you hack?

# 'access control' TPMs

- Used by copyright owners (or on their behalf);
- in connection with the exercise of the copyright;
- which in the normal course of its operation, controls access to the work
- Carve-outs for:
  - Region-coding on films/computer games
  - Some embedded software

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# Three tests (Rusty/Linux)

1. Can you create your own device which uses legitimately-purchased copyright material?
3. If the device does more than 'approved' players, can copyright owners prevent you?
5. Is the law clear enough that small businesses feel safe providing innovative products to consumers?

The future

We'll route around it. We'll run thin clients and put all our servers in New Zealand/ Canada/ Antigua/ Sealand



Revolution!

The IP system is broken.

Just ignore it, engage in 'mass civil disobedience' and it will collapse under its own weight

Let's run a test case

We must devote more resources to lobbying, and get the law changed. We just haven't done *enough* to get the law right.

The key to getting the laws you want  
is to make people **care.**

Go forth and do cool stuff.