Title:
How to Compete with Free: Debunking the DRM Management Myth

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1032

Summary:
In an attempt to protect exiting revenue, many media companies see Digital
Rights Management (DRM) technologies as the solution. This article discusses how
DRM is ineffective at preventing piracy and is more likely to be exploited by
technology providers to protect themselves from competition.

Keywords:
movie downloads, download movies, on-line movies, dvd movie downloads,

Article Body:
The media is abuzz with reports of illegal music and movie downloading, peer-to-
peer file sharing and the related ongoing legal and legislative battles being
played out in our courts and in Congress. Most of these discussions perpetuate a
myth that existing, or soon-to-be-developed, digital rights management (DRM)
technologies are the key to solving the entertainment industry's piracy woes. As
support for this notion, many cite Apple's successful iTunes music download
service. The conventional wisdom is that since Apple uses DRM and Apple is
successful, then technical copy protection mechanisms must have been
instrumental in Apple's success. The truth is that Apple's DRM technology,
called FairPlay, was indeed instrumental in Apple's success, but not because it
prevents digital piracy.

For preventing piracy, FairPlay is not only totally ineffective, it was
implemented that way on purpose. Once you purchase a song via iTunes, you are
allowed to burn it to a CD. Once you burn it, the song is completely beyond the
control of iTunes. You can rip the song off the CD by using perfectly legal
software, such as the Windows media player; post the music on a file share; re-
encode it in MP3 format; or make a million copies of the CD and give them away
in Times Square. FairPlay does nothing to prevent people from doing those
things. So, since the notion that FairPlay prevents piracy crumbles in the face
of logical analysis, why did Apple bother to create it?

There are two very logical justifications for FairPlay. One has nothing to do
with the effectiveness of DRM and everything to do with marketing. That is,
having a DRM illusion made it much easier for Apple to convince record labels to

distribute their music through iTunes. Another reason for FairPlay's existence has nothing to do with protecting rights holders from piracy and everything to do with protecting Apple from competition. The iTunes service and Apple's iPod player were designed to work together and the proprietary FairPlay technology helps to exclude interlopers. Any iTunes or iPod clone-maker would have to reverse engineer FairPlay, making the task of creating clones all the more difficult and giving Apple both technical and legal counterattack options. For example, when RealNetworks introduced Harmony, a technology that makes the RealPlayer Music Store compatible with iPods, Apple responded with a threat that future Apple software updates would likely break the compatibility and even went so far as to question the legality or Real's action under the Digital Millennium Copyright Act (DMCA), which makes circumventing copy protection illegal. This case clearly demonstrates that Apple intends to use FairPlay to protect its own commercial interests, which have nothing to do with preventing piracy.

Although hackers have compromised FairPlay, digital content pirates do not have to; they can simply take advantage of a gaping, built-in hole. But even if we ignore all past experience with copy protection and assume that FairPlay could be made foolproof, it would still provide little or no protection to rights holders from piracy. Copies of digital content are exact copies. They do not degrade no matter how many times you duplicate them. Consequently, even just one in-the-clear copy of a digital work can be perfectly duplicated millions and millions of times while being distributed by using file sharing networks. Since many of the latest file sharing technologies are "open source" applications, such as Bittorrent, that are owned by no one and available to anyone, the tactic of litigating against companies that operate P2P networks is becoming pointless. Technical measures for thwarting file-sharing have been attempted, but countermeasures are created almost as fast. The inescapable fact is that, short of a complete government-enforced lock-down of the Internet, entertainment businesses will increasingly have to face the challenge of competing with free.

In the real world, a significant number of microwave oven clocks blink 12:00 for years on end because consumers are either unable to learn how to set the time, or they are just unwilling to bother. Yet some in the entertainment industry continue to flirt with a fantasy that consumers will not only tolerate, but also pay for, DRM-based solutions that are terrible for preventing piracy, but that are pretty good at inconveniencing the very consumers upon whom commercial success depends. This notion that DRM can protect rights holders and help them to compete with free is perpetuated by the purveyors of multiple incompatible DRM solutions. These vendors find an eager audience with some executives who are so desperate to insulate their business models from change that they are willing to believe that the DRM snake oil will protect existing revenue streams.

Apple's iTunes has demonstrated that you can indeed compete with free. But as

this document has shown, the effectiveness of Apple's DRM in thwarting illegal copying played no part in that success. It is important to note, however, that Apple could not be successful with iTunes solely by creating technical and legal barriers, or by promoting its DRM to rights holders as an elixir to piracy. The other half of the iTunes formula for success is completely dependent on peoples' behavior: if consumers did not recognize value in iTunes, they would simply not use it. Moreover, virtually every song legitimatly purchased through iTunes can be acquired fairly easily for free via illegal means. Apple's iTunes service, in combination with the iPod player, offers consumers a complete and integrated solution that is easy to use, flexible (e.g. you can burn songs to CD) and stylish. Apple is attractive to consumers, not because Fairplay DRM is restrictive, but in large part because it is not.

Pundits and vendors are doing a profound disservice to the entertainment industry by perpetuating the DRM myth and holding up iTunes as an example. With iTunes, Apple has not demonstrated the value of DRM to either consumers or rights holders. Apple has shown, however, that you can successfully compete with free, and get consumers to open their wallets, if you can offer them convenience and value. The entertainment industry should take heed from the real iTunes example: give consumers a great offering at a reasonable price, and you just might eliminate the incentive to acquire works illegally and make digital piracy obsolete.