

ALA DCWG Tip Sheet

An Informational Resource from the Digital Content and Libraries Working Group
of the American Library Association

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Digital Rights Management

What is DRM? Digital rights management (DRM) is any system used by producers, publishers, and vendors to embed technological controls on what users can do with electronic files – ebooks, movies on DVDs, and other media. Specifically, DRM systems are designed both to enable access and use of digital materials and to restrict copying, sharing, reformatting or otherwise changing electronic media. These restrictions can range from “active” DRM, which marries ebooks to a brand of ereader to more “passive” DRM, like watermarking a digital file with the purchaser’s name and email address. A familiar example of DRM employed in libraries is the patron library card that uniquely identifies a library user authorized to check out a book.

What are the Legal Ramifications of DRM?

DRM can be used to make unauthorized copying more difficult. In the U.S., the Digital Millennium Copyright Act of 1998 (DMCA) makes circumvention of technological protection measures like DRM, a civil offense, and when done for commercial purposes, a federal crime. Some kinds of copying are legal under copyright law. However it is not certain whether bypassing technological protection measures to move an ebook from one ereader platform to another is. While many DRM methods and structures can be easily thwarted by tech savvy users, many of these acts of circumvention are violations of the DMCA.

How Does DRM Restrict Access?

One unintended consequence of DRM has been to lock buyers of ereaders into a specific ebook platform. While EPUB is becoming the *de facto* standard file format for ebooks, companies that use EPUB files on their ereaders can use DRM to restrict use of their EPUBs to specific devices. This forces consumers to buy ebooks from the same company they bought their ereader from. It also means that libraries can only lend certain book formats for certain devices, and that users may only be able to access some titles libraries make available because of the device they use.

For example, even though Barnes & Noble's Nook and Apple's iBooks both use EPUB files, they use different DRM. A Nook ebook can't be read in iBooks and vice versa. Consumers who own iPads must use the Nook app to access Barnes & Noble ebooks. DRM can also restrict what libraries and consumers can do with their ebooks. DRM can be used by vendors to automatically delete files after a loan period has ended. This maintains the "one reader, one ebook" lending model. DRM can also be used to restrict readers from loaning an ebook they have purchased to someone else, or it can be used to only allow them to loan a purchased ebook a certain number of times.

Does DRM Endanger the Rights of Library Users?

Fair use and other exceptions to copyright law that libraries have relied on could be blocked by DRM. For example, people with print disabilities may be unable to use the text-to-speech (TTS) function of their ereader if that function is disabled or the ebook is coded to prevent TTS.¹ DRM can be used to enforce a pay-per-use model of access or limit libraries' ability to archive or access items. Ultimately, DRM is what enforces the license agreement that libraries make with ebook vendors or publishers. Even if you hack the technologies, you may have violated the terms of your license agreement.

Is DRM Here to Stay?

Changes are afoot. Major publishers are beginning to eliminate DRM on their ebooks. Evidence is mounting that DRM is ineffective in preventing unauthorized uses of digital technologies and only serves to anger consumers. Pottermore, the Harry Potter ebook store, debuted with what can be thought of as passive or social DRM (though the move has been lauded as DRM-free in the press).² Pottermore books are watermarked, so if they are offered for free online, the original owner's name and email address will be visible. This type of tracking, while less restrictive to consumers, may not be appropriate in libraries. Adding identifying marks to an electronic loan could potentially violate patron privacy laws in some states as well as prove difficult to fold into a library ebook model. Another sign that this topic is far from static is the recent announcement that Tor/Forge, an imprint of Macmillan, and Momentum, an imprint of Pan Macmillan, will sell future releases without publisher DRM, though retailers may still add their own DRM.³

¹ The Librarian of Congress has ruled that circumvention of ebooks with DRM – to enable text-to-speech (TTS) for people with print disabilities – is an exemption to the general prohibition rule. Circumvention is *allowed* for this purpose and has been since 2000. However, a previously approved exemption must be requested again every three years at a rulemaking proceeding aimed at identifying non-infringing uses of particular classes of works. U.S. Code Title 17, Section 1201(B).

² A too-cosy world? E-book publishing. (2012, Apr 14). *The Economist*, 403, p. 73.
See also Nick Clayton, "Pottermore Sells \$5 Million of E-Books Without DRM in First Month." (May 8, 2012). *The Wall Street Journal*. Available <http://blogs.wsj.com/tech-europe/2012/05/08/pottermore-sells-5million-of-e-books-without-drm-in-first-month/>.

³ Senior, A. (2012, Jun 04). "Media: Will we ever find the Kindle's achilles heel? Books migration to digital is utterly dominated by Amazon and its e-reader." *The Guardian*, p. 26.

See also Cory Doctorow, "Tor Books goes completely DRM-free." (April 24, 2012) *Boing Boing*. Available <http://boingboing.net/2012/04/24/tor-books-goes-completely-drm.html>.

What can I Do about DRM?

Keep up with what's going on in the DRM, ebook, and vendor worlds. Make sure to educate your colleagues, customers, and community about the impact that DRM has on their library and their access to materials. Take every opportunity to speak up. Inform others. Participate in the dialogue to ensure that new technology does not restrict – but rather protects and expands – access and the rights of readers.

Talking Points for DRM

- Libraries oppose uses of DRM that lock readers to specific ebook formats. Libraries and readers who lawfully acquire content should be able to read that content on any device.
- Libraries oppose DRM that is used to track specific individual reader behavior - what they read, when they read, and where they choose to read it.
- Libraries and readers need new technology that protects and expands access to ebooks and other digital content.
- Libraries and readers need consistent standards and formats that enable, rather than restrict, reading across devices and technology platforms.

Where Can I Learn More about DRM?

- ALA's Advocacy and Issues page on DRM: <http://www.ala.org/advocacy/copyright/digitalrights>
- The Electronic Frontier Foundation: <https://www.eff.org/issues/drm>
- Boing Boing on DRM: <http://boingboing.net/tag/DRM>
- Cory Doctorow's *Content*, a free ebook of essays about technology, copyright, and DRM: <http://craphound.com/content/download/>

Sites that post regularly on DRM, ebooks and related issues

- American Libraries E-Content blog: <http://americanlibrariesmagazine.org/e-content>
- PaidContent: <http://paidcontent.org/>
- Teleread: <http://www.teleread.com/>

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About the Digital Content and Libraries Working Group (DCWG)

The DCWG is a working group of the American Library Association. It was established to complement and inform an association-wide strategy and program to address digital content issues and assist libraries in the evaluation and adoption of new digital formats and content. DCWG is charged to advise the Association regarding opportunities and issues related to libraries and digital content and the provision of equitable access to digital content for all. For more information visit ALA Connect <http://connect.ala.org/node/159669>.

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