

DIGITAL DISPOSITION OF A WORK: FROM TECHNICAL PROTECTION MEASURES TO CREATIVE COMMONS

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SUMMARY

Technological advancement produces a necessity for change and adaptation on a legal level. In this process, the majority of the cultural industry involved, try to maintain their influence by eliminating the risks that threaten their interests.

In order to regulate the distribution of works on the internet, the law sought the aid of technology, thus introducing the famous technical measures to complement and secure intellectual property restrictions. We can identify different kinds of technical measures which are accepted and protected by international and national laws. Uses of some technical protection measures have been, however, condemned by courts, especially when they obstruct the various uses of works that are authorized by intellectual property law.

The central question of this paper, therefore, will be whether creators have another way of keeping control over their works, after their distribution in digital form, when the option of technical protection measures seems too restrictive.

The Creative Commons movement was created as an alternative solution for the protection of works. It consists of 6 different licenses that, in accordance to the main rules of international copyright conventions, give creators the chance to eliminate the intermediaries and diffuse their work offering the same, if not more, options to users. One of the greatest innovations of these licenses is their use of a technical measure of identification called metadata but also their anti-TPM (Technical Protection Measure) clause.

This paper will examine the evolution of technical measures into intellectual property law as well as their existence into the Creative Commons licenses. We will particularly examine their compatibility to copyright exceptions respect in the context of access to works within education and cultural institution. Finally, we will demonstrate how technical measures can be used not only to control works but also to promote their distribution.