

CHAPTER 12

Caveat Hacker

Reverse engineering and intellectual property law has some tricky legal interactions. On one hand, innovation deserves its just reward. The right of inventors or authors to exclusively produce or sell the fruits of their labor must be protected. On the other hand, a free and competitive market place is also required to preserve innovation and to ensure fair markets. The study of the design principles embodied in existing products and the ability to produce improved derivative products are an important part of a competitive market place.

This chapter provides an overview of intellectual property law, and some of the more important bits that you need to know about as a hacker. Ignorance is not a valid defense, and there are some severe penalties prescribed by the law for those who ignore the laws that govern reverse engineering and intellectual property rights. Some acts of intellectual property violation are punishable as felonies along with hefty fines.

The majority of this chapter was written by Lee Tien, a Senior Staff Attorney with the Electronic Frontier Foundation. Lee (and Joseph Liu) were my counsel during the period when I was trying to publish my findings on the Xbox security system. Chapter 6 has a sidebar titled “The Legal Challenges of Hacking” that describes my fight with MIT to get my paper published.

The content of this chapter is presented with the intention of providing an informational resource for hackers. If you think you may be in a legally compromising situation, there is no substitute for contacting an attorney and getting proper legal advice on your specific situation.