



**C.I.R.S.F.I.D**  
**Alma Mater Studiorum Università di Bologna**  
Research Centre of History of Law,  
Philosophy and Sociology of Law,  
Computer Science and Law

## DRM: Rights Management Information and Technological Measures

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*Andrea Marco Ricci*  
[aricci@cirfid.unibo.it](mailto:aricci@cirfid.unibo.it)



## Digital Rights Management

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Manage and protect intellectual property rights and digital contents distributed on networks:

1. Legal perspective  
(Identification of copyright owners, contracts and licensing, description of terms and conditions of use,...)
2. Technological perspective  
(protection of the content with technological measures like watermarking, cryptography,...)
3. Economic perspective  
(automatic payment and management of royalties, monitoring, tracking,...)



## Legal text

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### **International legislation:**

- *WCT – WIPO Copyright Treaty* adopted in Geneva December, 20 1996, entered into force on March 6, 2002.
- *WPPT - WIPO Phonograms and Performances Treaty*, adopted in Geneva December, 20 1996, entered into force on May 20, 2002.

### **EU/Italian legislation:**

- *Law April 22, 1941 n. 633* - Italian Copyright Law (ICL), as last amended by
- *Legislative Decree April 9, 2003, n. 68*, which has introduced
- *Directive 2001/29/EC* of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (s.c.EUCD).



## Rights Management Information

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### **Definition:**

*any information provided by rightholders which identifies the work or other subject-matter, the author or any other rightholder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information.*

See: art. 12, co 2 WCT; art. 19 WPPT;  
art. 7,2 EUCD; art. 102, co. 2 *quinquies* ICL.



## Functions

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- Identify the work
- Identify the author or any other rightholder
- Recognise moral and economic author's rights
- Discourage violations
- Provide information about the terms and conditions of use of the work
- Facilitate the management of IP rights



## Rights Management Information

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- Explicit recognition  
Rightholders should be encouraged to use markings indicating Rights Management Information and their authorisation when putting works or other subject-matter on networks.  

See Whereas n. 55 EUCD
- Not mandatory  
Rights Management information *can be inserted* by copyright owners (author's and related rights), and by the person who has made the database, on works or protected contents, or *can be shown* in the communication to the public of the works.  

See Art. 102 *quinquies* ICL



## Prohibited actions

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- the removal or alteration of any electronic rights-management information without authority
- the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected by the EUCD and by the database Directive from which electronic rights-management information has been removed or altered without authority

See: art. 7,1 EUCD



## Violation: subjective conditions

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- Effective consciousness
- Reasonable possibility to know that the behaviour “will induce, enable, facilitate or conceal an infringement of any right covered”

See: art. 7 EUCD; art. 12 WCT; Art. 19 WPPT.

- No specific provisions in Italian Law



## Criminal sanctions

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- imprisonment from six months to 3 years
- fined from 2,500 to 15,000 €

if the fact is done for:

- *non personal use*
- *for economic gain*

See: art. 171 *ter, h)* ICL

plus accessory sanctions

(such as interdiction from a profession, publication of the court decision)



## Considerations

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1. No exceptions or limitations (vs. DMCA)
2. Economic gain appears difficult to take shape



## Technological Measures

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### *Tout court* technological measures

any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter.

### *Effective* technological measures

where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective.

See: art. 6, 3 EUCD



## Prohibited actions

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- The circumvention of any effective technological measures
- The manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:
  - are promoted, advertised or marketed for the purpose of circumvention of, or
  - have only a limited commercially significant purpose or use other than to circumvent, or
  - are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures.

See art. 6, 2 EUCD



## Criminal sanctions

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Same as for Rights Management Information

- *non personal use*
- *for economic gain*

See: art. 171 *ter, f bis*) ICL

- *personal use*  
*amministrative sanction of 154€*  
*+ publication on a national newspaper of the measure*  
*+ confiscation*  
*+ if heavy or recidivism until 1032€*

See: art. 174 *ter* ICL



## Limits: 1. Internal

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1. Principle of proportionality

(See: whereas n. 48 EUCD)

2. Without prejudice to public policy or public security

(See: whereas n. 51 EUCD)

3. Exceptions and limitations

(See: art. 71 *quinquies* ICL)



## Limits: 2. External

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1. Personal data protection of users
2. Consumers rights
3. Abuse of right



## Considerations

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- Restrictive
- Contradictory
- Copyright owners have a stronger protection



## *What if...?* DeCoss Case in Italy

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- No exception and limitations
- It is not reverse engineering of software
- Tools for the purpose are illegal  
(See: art. 171 ter ICL )
- The person who is responsible for the circumvention is punished in any case, even if he will not distribute the contents obtained violating.  
(See: art. 174 ter ICL)
- Guilty!